



Iowa General Assembly
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Senate Amendment to
House File 2399

H-8419

- 1 Amend House File 2399, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, line 4, after <agency> by inserting <or
4 other officer or employee designated by a county or
5 city to enforce this section>
6 2. Page 2, line 5, after <agency> by inserting <or
7 designated officer or employee of a county or city>
8 3. Page 2, line 6, by striking <a criminal> and
9 inserting <an>
10 4. Page 2, line 7, after <agency> by inserting <or
11 designated officer or employee of a county or city>
12 5. Page 2, line 9, after <in> by inserting
13 <enforcement of this section or>
14 6. Page 2, line 30, before <The> by inserting <a.>
15 7. Page 2, after line 32 by inserting:
16 <b. Notwithstanding paragraph "a" of this
17 subsection, a city ordinance regarding scrap metal or
18 other scrap material in effect prior to January 1,
19 2012, in a city with a population exceeding one hundred
20 fifty thousand as shown by the 2010 federal decennial
21 census may continue to be enforced by the city which
22 adopted it.>
23 8. Page 2, by striking line 33 and inserting:
24 <5. A person who violates subsection 2, paragraph
25 "a", or a person who conducts a scrap metal transaction
26 by or on behalf of a scrap metal dealer who violates
27 this section shall be subject to a>
28 9. Page 3, after line 7 by inserting:
29 <Sec. _____. Section 805.8C, Code 2011, is amended by
30 adding the following new subsection:
31 *NEW SUBSECTION. 9. Scrap metal transaction*
32 *violations.* For violations of section 714.27, the
33 scheduled fine is one hundred dollars for a first
34 violation, five hundred dollars for a second violation
35 within two years, and one thousand dollars for a
36 third or subsequent violation within two years. The
37 scheduled fine under this subsection is a civil penalty
38 which shall be deposited into the general fund of the
39 county or city if imposed by a designated officer or
40 employee of a county or city, or deposited in the
41 general fund of the state if imposed by a state agency,
42 and the criminal penalty surcharge under section 911.1
43 shall not be added to the penalty.>
44 10. By renumbering as necessary.

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House File 2462

H-8420

- 1 Amend House File 2462 as follows:
2 1. Page 1, by striking lines 14 and 15 and
3 inserting <advance of the ~~starting~~ earliest start date
4 established in section 279.10, subsection 1.>
5 2. Page 1, line 16, by striking <1, 2, and 4> and
6 inserting <1 and 2>
7 3. Page 1, by striking line 21 and inserting <~~which~~
8 ~~the first day fourth Monday of September falls~~ August,
9 but no later than>
10 4. Page 1, lines 27 and 28, by striking <or for an
11 early start date pursuant to subsection 4>
12 5. Page 2, by striking lines 11 through 24 and
13 inserting:
14 <Sec. _____. Section 279.10, subsection 4, Code 2011,
15 is amended by striking the subsection.>
16 6. Title page, by striking lines 2 and 3 and
17 inserting <and including effective date and>
18 7. By renumbering as necessary.

J. SMITH of Dickinson

PAUSTIAN of Scott



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House File 2464

H-8421

- 1 Amend House File 2464 as follows:
- 2 1. Page 10, line 18, by striking <all> and
- 3 inserting <all>
- 4 2. Page 10, lines 22 and 23, by striking <radiation
- 5 ~~machine or radioactive material as well as the~~> and
- 6 inserting <radiation machine or radioactive material
- 7 as well as the>

M. SMITH of Marshall



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House File 2463 - Introduced

HOUSE FILE 2463
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 673)

A BILL FOR

1 An Act relating to the income tax checkoffs for the child
2 abuse prevention program fund and the veterans trust fund
3 and volunteer fire fighter preparedness fund, and including
4 retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:



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1 Section 1. Section 35A.13, subsection 2, Code Supplement
2 2011, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. Moneys credited to the fund pursuant to
4 an income tax checkoff provided in chapter 422, division II,
5 if applicable.

6 Sec. 2. Section 100B.13, subsection 2, paragraph a, Code
7 2011, is amended to read as follows:

8 a. Moneys credited to the fund pursuant to ~~section 422.12G~~
9 an income tax checkoff provided in chapter 422, division II,
10 if applicable.

11 Sec. 3. Section 235A.2, subsection 1, Code 2011, is amended
12 to read as follows:

13 1. A child abuse prevention program fund is created in
14 the state treasury under the control of the department of
15 human services. The fund is composed of moneys appropriated
16 or available to and obtained or accepted by the treasurer of
17 state for deposit in the fund. The fund shall include moneys
18 transferred to the fund ~~as provided in section 422.12F~~ pursuant
19 to an income tax checkoff provided in chapter 422, division II,
20 if applicable. All interest earned on moneys in the fund shall
21 be credited to and remain in the fund. Section 8.33 does not
22 apply to moneys in the fund.

23 Sec. 4. NEW SECTION. **422.12K Income tax checkoff for child**
24 **abuse prevention program fund.**

25 1. A person who files an individual or a joint income tax
26 return with the department of revenue under section 422.13 may
27 designate one dollar or more to be paid to the child abuse
28 prevention program fund created in section 235A.2. If the
29 refund due on the return or the payment remitted with the
30 return is insufficient to pay the additional amount designated
31 by the taxpayer to the child abuse prevention program fund,
32 the amount designated shall be reduced to the remaining amount
33 remitted with the return. The designation of a contribution
34 to the child abuse prevention program fund under this section
35 is irrevocable.



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1 2. The director of revenue shall draft the income tax form
2 to allow the designation of contributions to the child abuse
3 prevention program fund on the tax return. The department of
4 revenue, on or before January 31, shall transfer the total
5 amount designated on the tax return forms due in the preceding
6 calendar year to the child abuse prevention program fund.

7 However, before a checkoff pursuant to this section shall be
8 permitted, all liabilities on the books of the department of
9 administrative services and accounts identified as owing under
10 section 8A.504 and the political contribution allowed under
11 section 68A.601 shall be satisfied.

12 3. The department of human services may authorize payment
13 of moneys from the child abuse prevention program fund in
14 accordance with section 235A.2.

15 4. The department of revenue shall adopt rules to administer
16 this section.

17 5. This section is subject to repeal under section 422.12E.

18 Sec. 5. NEW SECTION. **422.12L Joint income tax checkoff for**
19 **veterans trust fund and volunteer fire fighter preparedness fund.**

20 1. A person who files an individual or a joint income tax
21 return with the department of revenue under section 422.13 may
22 designate one dollar or more to be paid jointly to the veterans
23 trust fund created in section 35A.13 and to the volunteer fire
24 fighter preparedness fund created in section 100B.13. If the
25 refund due on the return or the payment remitted with the
26 return is insufficient to pay the additional amount designated
27 by the taxpayer, the amount designated shall be reduced to the
28 remaining amount of refund or the remaining amount remitted
29 with the return. The designation of a contribution under this
30 section is irrevocable.

31 2. The director of revenue shall draft the income tax form
32 to allow the designation of contributions to the veterans trust
33 fund and to the volunteer fire fighter preparedness fund as
34 one checkoff on the tax return. The department of revenue,
35 on or before January 31, shall transfer one-half of the total



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1 amount designated on the tax return forms due in the preceding
2 calendar year to the veterans trust fund and the remaining
3 one-half to the volunteer fire fighter preparedness fund.
4 However, before a checkoff pursuant to this section shall be
5 permitted, all liabilities on the books of the department of
6 administrative services and accounts identified as owing under
7 section 8A.504 and the political contribution allowed under
8 section 68A.601 shall be satisfied.

9 3. The department of revenue shall adopt rules to administer
10 this section.

11 4. This section is subject to repeal under section 422.12E.

12 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies
13 retroactively to January 1, 2012, for tax years beginning on
14 or after that date.

15 EXPLANATION

16 This bill relates to the income tax checkoffs for the child
17 abuse prevention program fund and the veterans trust fund and
18 volunteer fire fighter preparedness fund.

19 Code section 422.12E limits to four the number of income tax
20 checkoffs that can appear on the income tax return. When the
21 same four income tax return checkoffs have been provided on the
22 income tax return for two consecutive years, the two checkoffs
23 for which the least amount has been contributed through March
24 15 of the second tax year are automatically repealed.

25 The bill reenacts as new the checkoffs for both the child
26 abuse prevention program fund and the veterans trust fund and
27 volunteer fire fighter preparedness fund.

28 The bill also makes conforming amendments to Code sections
29 35A.13, 100B.13, and 235A.2, relating to the funds that receive
30 the moneys from the checkoffs, to update references to the
31 income tax checkoffs.

32 The bill applies retroactively to January 1, 2012, for tax
33 years beginning on or after that date.



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House File 2464 - Introduced

HOUSE FILE 2464
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2420)
(SUCCESSOR TO HSB 622)

A BILL FOR

1 An Act relating to department of public health programs and
2 activities, providing for a penalty, and including effective
3 and applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6030HZ (1) 84
ad/nh



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DIVISION I

NURSING HOME ADMINISTRATORS

Section 1. Section 155.1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

For the purposes of this chapter, ~~and as used herein:~~

Sec. 2. Section 155.3, subsections 2 and 3, Code 2011, are amended to read as follows:

2. The applicant has ~~satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; knowledge of the laws governing the operation of nursing homes and the protection of the interests of patients therein; and knowledge of the elements of good nursing home administration; or has presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise, and manage a nursing home.~~

3. The applicant has passed an examination ~~administered prescribed~~ by the board ~~and designed to test for competence in the subject matter referred to in subsection 2 of this section pursuant to section 147.34.~~

Sec. 3. Section 155.4, Code 2011, is amended to read as follows:

155.4 Licensing function.

The board shall license nursing home administrators in accordance with this chapter, chapter 147, and rules issued, ~~and from time to time revised, by it by the board.~~ A nursing home administrator's license shall not be transferable and, if not inactive, shall be valid until revoked pursuant to section 147.55 or voluntarily surrendered for cancellation ~~or suspended or revoked for violation of this chapter or any other laws or regulations relating to the proper administration and management of a nursing home. Any denial of issuance or renewal, suspension, or revocation under any section of this~~

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~~1 chapter shall be subject to judicial review in accordance with
2 the terms of the Iowa administrative procedure Act, chapter
3 17A.~~

4 Sec. 4. Section 155.5, Code 2011, is amended to read as
5 follows:

6 **155.5 License fees.**

7 Each person licensed as a nursing home administrator shall
8 be required to pay a license fee in an amount to be fixed by
9 the board. The license shall expire in multiyear intervals
10 determined by the board and be renewable and upon payment of
11 the license a renewal fee. A person who fails to renew a
12 license by the expiration date shall be allowed to do so within
13 thirty days following its expiration, but the board may assess
14 a reasonable penalty.

15 Sec. 5. Section 155.9, Code 2011, is amended to read as
16 follows:

17 **155.9 Duties of the board.**

18 The In addition to the duties and responsibilities provided
19 in chapters 147 and 272C, the board shall have the duty and
20 responsibility to:

21 ~~1. Develop, impose, and enforce standards which must be~~
22 ~~met by individuals in order to receive a license as a nursing~~
23 ~~home administrator, which standards shall be designed to~~
24 ~~insure that nursing home administrators will be individuals~~
25 ~~who, by training or experience in the field of institutional~~
26 ~~administration, are qualified to serve as nursing home~~
27 ~~administrators.~~

28 ~~2. Develop and apply appropriate techniques, including~~
29 ~~examination and investigations, for determining whether an~~
30 ~~individual meets such standards. The board may administer~~
31 ~~as many examinations per year as are necessary, but shall~~
32 ~~administer at least one examination per year. Any written~~
33 ~~examination may be given by representatives of the board.~~
34 ~~Applicants who fail the examination once shall be allowed to~~
35 ~~take the examination at the next scheduled time. Thereafter,~~

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1 the applicant shall be allowed to take the examination at the
2 discretion of the board. An applicant who has failed the
3 examination may request in writing information from the board
4 concerning the applicant's examination grade and subject areas
5 or questions which the applicant failed to answer correctly,
6 except that if the board administers a uniform, standardized
7 examination, the board shall only be required to provide the
8 examination grade and such other information concerning the
9 applicant's examination results which are available to the
10 board.

11 3. Issue licenses to individuals who, after application
12 of such techniques, are found to have met such standards; and
13 for cause and after due notice and hearing, revoke or suspend
14 licenses previously issued by such board in any case where
15 the individual holding such license is found to have failed
16 substantially to conform to the requirements of such standards.

17 The board may also accept the voluntary surrender of such
18 license without necessity of a hearing. In adopt rules for
19 granting a provisional license to an administrator appointed
20 on a temporary basis by a nursing home's owner or owners in the
21 event of the inability of the regular administrator of a the
22 nursing home is unable to perform the administrator's duties
23 or through death or other cause the nursing home is without
24 a licensed administrator, a provisional administrator may be
25 appointed on a temporary basis by the nursing home owner or
26 owners to perform such duties for a period not to exceed one
27 year because of death or other cause. Such provisional license
28 shall allow the provisional licensee to perform the duties of
29 a nursing home administrator. An individual shall not hold a
30 provisional license for more than twelve total combined months,
31 and the board may revoke or otherwise discipline a provisional
32 licensee for cause after due notice and a hearing on a charge
33 or complaint filed with the board.

34 4. Establish and carry out procedures designed to insure
35 that individuals licensed as nursing home administrators will,

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1 ~~during any period that they serve as such, comply with the~~
2 ~~requirements of such standards.~~
3 5. ~~Receive, investigate, and take appropriate action with~~
4 ~~respect to any charge or complaint filed with the board to~~
5 ~~the effect that any individual licensed as a nursing home~~
6 ~~administrator has failed to comply with the requirements~~
7 ~~of such standards. Such appropriate action may include~~
8 ~~revocation of a license, if necessary, or placing the licensee~~
9 ~~on probation for a period not exceeding six months, and shall~~
10 ~~be taken only for cause after due notice and a hearing on the~~
11 ~~charge or complaint.~~
12 6. ~~Conduct a continuing study and investigation of nursing~~
13 ~~homes, and administrators of nursing homes, in this state~~
14 ~~with a view to the improvement of the standards imposed for~~
15 ~~the licensing of such administrators and of procedures and~~
16 ~~methods for the enforcement of such standards with respect to~~
17 ~~administrators of nursing homes who have been licensed as such.~~
18 7. ~~Conduct, or cause to be conducted, one or more courses of~~
19 ~~instruction and training sufficient to meet the requirements~~
20 ~~of this chapter, and make provisions for such courses and~~
21 ~~their accessibility to residents of this state unless it finds~~
22 ~~that there are, and approves, a sufficient number of courses,~~
23 ~~which courses are conducted by others within this state. In~~
24 ~~lieu thereof the board may approve courses conducted within~~
25 ~~and without this state as sufficient to meet the education and~~
26 ~~training requirements of this chapter.~~
27 Sec. 6. Section 155.10, Code 2011, is amended by striking
28 the section and inserting in lieu thereof the following:
29 155.10 Continuing education.
30 Each person licensed as a nursing home administrator shall
31 be required to complete continuing education as a condition of
32 license renewal. Such continuing education requirements shall
33 be determined by the board.
34 Sec. 7. Section 155.14, Code 2011, is amended to read as
35 follows:

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1 **155.14 Applications.**

2 Applications for licensure and for license renewal shall be
3 ~~on forms in the format prescribed and furnished by the board~~
4 ~~and shall not contain a recent photograph of the applicant. An~~
5 ~~applicant shall not be ineligible for licensure because of age,~~
6 ~~citizenship, sex, race, religion, marital status or national~~
7 ~~origin although the application may require citizenship~~
8 ~~information. The board may consider the past felony record of~~
9 ~~an applicant only if the felony conviction relates directly~~
10 ~~to the practice of nursing home administration. Character~~
11 ~~references may be required, but shall not be obtained from~~
12 ~~licensed nursing home administrators.~~

13 Sec. 8. NEW SECTION. **155.19 Voluntary surrender.**

14 The board may accept the voluntary surrender of a license if
15 accompanied by a written statement of intention. The voluntary
16 surrender, when accepted, shall have the same force and effect
17 as an order of revocation.

18 Sec. 9. REPEAL. Sections 155.2, 155.15, and 155.16, Code
19 2011, are repealed.

20 DIVISION II

21 HEARING AID DISPENSERS

22 Sec. 10. Section 154A.7, Code 2011, is amended to read as
23 follows:

24 **154A.7 Meetings and expenses Board meetings.**

25 ~~The members of the board shall receive actual expenses~~
26 ~~incurred in the discharge of their duties within the limits of~~
27 ~~funds appropriated to the board. Each member of the board may~~
28 ~~also be eligible to receive compensation as provided in section~~
29 ~~7E.6. The board shall meet at least one time per year at the~~
30 ~~seat of government and may hold additional meetings as deemed~~
31 ~~necessary. Additional meetings shall be held at the call of~~
32 ~~the chairperson or a majority of the members of the board.~~
33 ~~At any meeting of the board, a majority of the members shall~~
34 ~~constitute a quorum.~~

35 Sec. 11. Section 154A.10, Code 2011, is amended to read as

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1 follows:

2 **154A.10 Issuance of licenses.**

3 ~~After January 1, 1975, an~~ An applicant may obtain a license,
4 if the applicant:

5 1. Successfully passes the qualifying examination
6 prescribed in section 154A.12.

7 2. Is free of contagious or infectious disease.

8 3. Pays the necessary fees set by the board ~~pursuant to~~
9 ~~section 154A.17.~~

10 Sec. 12. Section 154A.12, subsection 1, paragraph a, Code
11 2011, is amended to read as follows:

12 ~~a. Written tests~~ Evidence of knowledge in areas such as
13 physics of sound, anatomy and physiology of hearing, and the
14 function of hearing aids, as these areas pertain to the fitting
15 or selection and sale of hearing aids.

16 Sec. 13. Section 154A.13, Code 2011, is amended to read as
17 follows:

18 **154A.13 Temporary permit.**

19 A person who has not been ~~employed~~ licensed as a hearing
20 aid dispenser ~~prior to January 1, 1975,~~ may obtain a temporary
21 permit from the department upon completion of the application
22 accompanied by the written verification of employment from a
23 licensed hearing aid dispenser. The department shall issue a
24 temporary permit for one year which shall not be renewed or
25 reissued. The fee for issuance of the temporary permit shall
26 be set by the board ~~pursuant to section 154A.17~~ in accordance
27 with the provisions for establishment of fees in section
28 147.80. The temporary permit entitles an applicant to engage
29 in the fitting or selection and sale of hearing aids under the
30 supervision of a person holding a valid license.

31 Sec. 14. Section 154A.23, Code 2011, is amended to read as
32 follows:

33 **154A.23 ~~Complaints~~ Disciplinary orders — attorney general.**

34 ~~Any person wishing to make a complaint against a licensee~~
35 ~~or holder of a temporary permit shall file a written statement~~

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1 ~~with the board within twelve months from the date of the action~~
2 ~~upon which the complaint is based. If the board determines~~
3 ~~that the complaint alleges facts which, if proven, would be~~
4 ~~cause for the suspension or revocation of the license of the~~
5 ~~licensee or the permit of the holder of a temporary permit,~~
6 ~~it shall make an order fixing a time and place for a hearing~~
7 ~~and requiring the licensee or holder of a temporary permit~~
8 ~~complained against to appear and defend. The order shall~~
9 ~~contain a copy of the complaint, and the order and copy of~~
10 ~~the complaint shall be served upon the licensee or holder~~
11 ~~of a temporary permit at least twenty days before the date~~
12 ~~set for hearing, either personally or as provided in section~~
13 ~~154A.21. Continuance or adjournment of a hearing date may be~~
14 ~~made for good cause. At the hearing the licensee or holder~~
15 ~~of a temporary permit may be represented by counsel. The~~
16 ~~licensee or holder of a temporary permit and the board may take~~
17 ~~depositions in advance of hearing and after service of the~~
18 ~~complaint, and either may compel the attendance of witnesses~~
19 ~~by subpoenas issued by the board. The board shall issue such~~
20 ~~subpoenas at the request of a licensee or holder of a temporary~~
21 ~~permit. Either party taking depositions shall give at least~~
22 ~~five days' written notice to the other party of the time and~~
23 ~~place of such depositions, and the other party may attend, with~~
24 ~~counsel, if desired, and cross-examine.~~

25 ~~If the board determines from the evidence and proofs~~
26 ~~submitted that the licensee or holder of a temporary permit is~~
27 ~~guilty of violating any of the provisions of this chapter, or~~
28 ~~any of the regulations promulgated by the board pursuant to~~
29 ~~this chapter, the department shall, within thirty days after~~
30 ~~the hearing, issue an order refusing to issue or renew, or~~
31 ~~revoking or suspending, as the case may be, the hearing aid~~
32 ~~dispenser's license or temporary permit. The order shall~~
33 ~~include the findings of fact and the conclusions of law made by~~
34 ~~the board and counsel. A copy of the order shall be sent to the~~
35 ~~licensee or holder of a temporary permit by registered mail.~~

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~~1 The records of the department shall reflect the action taken
2 by the board on the charges, and the department shall preserve
3 a record of the proceedings in a manner similar to that used by
4 courts of record in this state.~~

~~5 The final order of the board in the proceedings may be
6 appealed to the district court of the county where the licensee
7 or holder of a temporary permit resides, or in which the
8 licensed hearing aid dispenser's principal place of business
9 is located.~~

~~10 The department shall send a copy of the complaint and
11 a copy of the board's final order to the attorney general
12 for purposes of information in the event the licensee or
13 holder of a temporary permit pursues a court appeal and for
14 consideration as to whether the violations are flagrant enough
15 to justify prosecution. The board shall forward a copy of
16 all final disciplinary orders, with associated complaints,
17 to the attorney general for consideration for prosecution or
18 enforcement when warranted. The attorney general and all
19 county attorneys shall assist the board and the department in
20 the enforcement of the provisions of this chapter.~~

21 Sec. 15. REPEAL. Sections 154A.2, 154A.3, 154A.4, 154A.5,
22 154A.6, 154A.8, 154A.9, 154A.11, 154A.14, 154A.15, 154A.17, and
23 154A.18, Code 2011, are repealed.

24 DIVISION III

25 LOCAL BOARDS OF HEALTH

26 Sec. 16. Section 135.1, subsection 6, Code 2011, is amended
27 by striking the subsection.

28 Sec. 17. Section 137.112, Code 2011, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 4. This section does not apply to any
31 district board of health or district health department in
32 existence prior to July 1, 2010.

33 Sec. 18. Section 331.502, subsection 8, Code 2011, is
34 amended by striking the subsection.

35 Sec. 19. REPEAL. Section 135.32, Code 2011, is repealed.

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1 Sec. 20. EFFECTIVE UPON ENACTMENT. The following provision
2 or provisions of this division of this Act, being deemed of
3 immediate importance, take effect upon enactment:

4 1. The section of this Act amending section 137.112.

5 Sec. 21. RETROACTIVE APPLICABILITY. The following
6 provision or provisions of this division of this Act apply
7 retroactively to July 1, 2010:

8 1. The section of this Act amending section 137.112.

9

DIVISION IV

10

FEDERAL GRANTS REPORTING

11 Sec. 22. Section 135.11, Code Supplement 2011, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 31. Report to the chairpersons and ranking
14 members of the joint appropriations subcommittee on health
15 and human services, the legislative services agency, the
16 legislative caucus staffs, and the department of management
17 within sixty calendar days of applying for or renewing a
18 federal grant which requires a state match or maintenance of
19 effort and has a value of over one hundred thousand dollars.
20 The report shall list the federal funding source and address
21 the potential need for the commitment of state funding in order
22 to match or continue the funding provided by the federal grant
23 in the present or future.

24

DIVISION V

25

HIV CONFIDENTIALITY

26 Sec. 23. Section 141A.9, Code Supplement 2011, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 8. Medical information secured pursuant
29 to subsection 1 may be shared with other state or federal
30 agencies, with employees or agents of the department, or with
31 local units of government that have a need for the information
32 in the performance of their duties related to HIV prevention,
33 disease surveillance, or care of persons with HIV, only as
34 necessary to administer the program for which the information
35 is collected or to administer a program within the other

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1 agency. Confidential information transferred to other persons
2 or entities under this subsection shall continue to maintain
3 its confidential status and shall not be rereleased by the
4 receiving person or entity.

5 DIVISION VI

6 REPEAL OF REPORTING REQUIREMENTS

7 Sec. 24. REPEAL. Section 135.165, Code 2011, is repealed.

8 DIVISION VII

9 RADIOLOGICAL HEALTH

10 Sec. 25. Section 136C.3, subsection 5, Code 2011, is amended
11 to read as follows:

12 5. Issue orders as necessary in connection with licensing
13 and registration of radiation machines and radioactive
14 materials and the operators or users thereof.

15 Sec. 26. Section 136C.8, Code 2011, is amended to read as
16 follows:

17 **136C.8 Inspections.**

18 The department ~~shall~~ may inspect all radiation machines and
19 radioactive materials located in this state, for the purpose of
20 detecting, abating, or eliminating excessive radiation exposure
21 hazards. The inspection shall include but shall not be limited
22 to an evaluation of the ~~radiation machine or radioactive~~
23 ~~material as well as the~~ immediate environment to ensure that
24 in using the machines or materials all unnecessary hazards for
25 patients, personnel, and other persons who may be exposed to
26 radiation produced by the machine or materials are avoided.
27 ~~The inspection shall also include an evaluation of electrical~~
28 ~~hazards as well as the adequacy of mechanical supporting and~~
29 ~~restraining devices.~~ All defects and deficiencies noted by
30 the inspector shall be fully disclosed and discussed with the
31 responsible persons at the time of inspection. The department
32 shall establish rules prescribing operating procedures for
33 radiation machines and radioactive materials which ensure
34 minimum radiation exposure to patients, personnel, and other
35 persons in the immediate environment.

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1 Sec. 27. Section 136C.14, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. A person, other than a licensed professional, who
4 operates a radiation machine or uses radioactive materials
5 for medical treatment or diagnostic purposes shall ~~display~~
6 make available upon request the credentials which indicate
7 that person's qualification to operate the machine or use the
8 ~~materials in the immediate vicinity of the machine or where~~
9 ~~the materials are stored.~~ A person who owns or controls the
10 machine or materials ~~is also responsible for the proper display~~
11 ~~of credentials of those who operate the machine or use the~~
12 ~~materials and~~ shall not employ a person to operate the machine
13 or use the materials for medical treatment or diagnostic
14 purposes except as provided in this section.

15 Sec. 28. Section 136D.2, subsections 4 and 5, Code 2011, are
16 amended to read as follows:

17 4. "*Tanning device*" means any equipment that emits
18 electromagnetic radiation with wavelengths in the air between
19 200 and 400 nanometers and that is used for tanning of human
20 skin, such as ~~sunlamps,~~ tanning booths, or tanning beds.
21 ~~The term also includes any accompanying equipment such as~~
22 ~~protective eyewear, timers, and handrails.~~

23 5. "*Tanning facility*" means a ~~place that provides access~~
24 ~~to tanning devices for compensation~~ location, place, area,
25 structure, or business, or a part thereof, which provides
26 access to a tanning device for compensation. "*Tanning facility*"
27 may include but is not limited to a tanning salon, health club,
28 apartment, and condominium.

29 Sec. 29. Section 136D.8, subsection 2, Code 2011, is amended
30 by striking the subsection.

31 Sec. 30. NEW SECTION. 136D.9 Penalties.

32 1. The department may impose a civil penalty not to exceed
33 one thousand dollars on a person who violates a provision
34 of this chapter, a rule adopted or order issued under this
35 chapter, or a term, condition, or limitation of a registration

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1 certificate issued pursuant to this chapter, or who commits
2 a violation for which a registration certificate may be
3 revoked under rules issued pursuant to this chapter. Each
4 day of continuing violation constitutes a separate offense
5 in computing the civil penalty. However, the maximum civil
6 penalty for a continuing violation shall not exceed five
7 thousand dollars.

8 2. The department shall notify a person of the intent to
9 impose a civil penalty against the person. The department
10 shall establish the notification process to include an
11 opportunity for the person to respond in writing, within a
12 reasonable time as the department shall establish by rule,
13 regarding reasons why the civil penalty should not be imposed.

14 3. The department may compromise, mitigate, or refund a
15 civil penalty imposed under this section. A person upon whom
16 a civil penalty is imposed may appeal the action pursuant to
17 chapter 17A. The department shall remit moneys collected from
18 civil penalties to the treasurer of the state who shall deposit
19 the moneys in the general fund of the state.

20 EXPLANATION

21 This bill relates to programs and activities under the
22 purview of the department of public health.

23 Division I relates to nursing home administrators. The bill
24 eliminates certain provisions in the Code chapter that are
25 duplicative or inconsistent with the provisions in Code chapter
26 147, relating to health-related professions generally. The
27 bill eliminates the requirement that an applicant for a nursing
28 home administrator license satisfactorily complete a course of
29 instruction and training that was designed and administered
30 to present sufficient knowledge of the needs properly to be
31 served by nursing homes, knowledge of the laws governing the
32 operation of nursing homes and the protection of the interests
33 of patients, and knowledge of the elements of good nursing home
34 administration. The bill amends Code section 155.3 to state
35 that the board of nursing home administrators prescribes the

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1 examination pursuant to Code section 147.34, which governs
2 the examinations required for licensure for health care
3 professions, rather than administering the exam that tests
4 for competence in the needs properly to be served by nursing
5 homes, laws governing the operation of nursing homes and the
6 protection of the interests of patients, and the elements of
7 good nursing home administration.

8 The bill adds that the board shall license nursing home
9 administrators in accordance with the rules as well as Code
10 chapters 147 and 155. The bill makes technical changes
11 regarding the terminology of a licensee's voluntary or
12 involuntary loss of license and refers to Code section 147.55
13 for revocation of a nursing home administrator's license while
14 eliminating language in Code section 155.4 subjecting any
15 denial of issuance or renewal, suspension, or revocation under
16 Code chapter 155 to the judicial review procedure under Code
17 chapter 17A.

18 The bill makes technical changes to the licensing fees
19 provision. The bill allows the board to determine the
20 multiyear interval in which a license shall expire and allows
21 for the license to be renewed upon payment of a renewal fee
22 rather than a license fee.

23 The bill provides that the board has the general duties
24 and responsibilities for health-related boards listed in Code
25 chapters 147 and 272C and strikes the board's specific duties
26 relating to standards to be met by individuals in order to
27 receive licenses as nursing home administrators; techniques for
28 determining whether an individual meets the required standards;
29 the issuance of and disciplinary actions relating to licenses;
30 and complaints against nursing home administrators. The bill
31 removes language allowing the board to conduct a continuing
32 study and investigation of nursing homes and administrators in
33 the state to improve the standards. The bill strikes language
34 allowing the board to conduct or cause to be conducted courses
35 of instruction and training sufficient to meet the requirements

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1 of Code chapter 155.

2 The bill retains language in Code section 155.9 that allows
3 the board to establish rules to grant a provisional license to
4 an administrator, but makes technical changes. The bill allows
5 the board to grant a provisional license to an administrator
6 appointed on a temporary basis by a nursing home's owner
7 if the regular administrator is unable to perform the
8 administrator's duties or the nursing home is otherwise without
9 an administrator for some other reason. The bill strikes a
10 provision which states that an administrator appointed on a
11 temporary basis could not perform the duties for a period which
12 exceeds one year. The bill provides that a provisional license
13 can be held for no more than 12 combined months and the board
14 may revoke or otherwise discipline a person with a provisional
15 license for cause after due notice and a hearing.

16 The bill strikes the language in Code section 155.10
17 regarding renewal of licenses. Under the bill, Code chapter
18 272C would control the renewal of licenses. The bill provides
19 that a licensed nursing home administrator must complete
20 continuing education as a condition precedent for a license
21 renewal. The bill states the board will determine the
22 continuing education requirements.

23 The bill provides that applications for license renewal
24 shall be prescribed by the board. Under the amended language
25 of Code section 155.14, the bill states the board is not
26 required to furnish forms for licensure or license renewal.
27 The bill strikes the language regarding the characteristics the
28 board may consider when receiving an applicant's application.
29 Under the bill the characteristics to consider for eligibility
30 would be controlled by Code section 147.3.

31 The bill also adds a section to Code chapter 155 regarding a
32 licensee's voluntary surrender of a license. The bill states
33 the board may accept a voluntary surrender if it is accompanied
34 by a written statement of intention. The voluntary surrender
35 will have the same force and effect as revocation after the

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1 surrender is accepted.

2 The bill repeals the language regarding the composition
3 of the board of nursing home administrators. The board's
4 composition is governed by Code sections 147.12 through 147.20
5 and 147.82. The bill repeals the language in section 155.15
6 regarding the fees for examination, licensure, and renewal of
7 licensure. The language in Code section 147.80 would control.
8 The bill also repeals language in Code section 155.16 regarding
9 the public members of the board, making the language in Code
10 section 147.21 applicable.

11 Division II relates to hearing aid dispensers. The bill
12 eliminates certain provisions within Code chapter 154A as Code
13 chapter 147 regarding health-related professions now governs
14 the board of hearing aid dispensers in its provisions.

15 The bill eliminates language in Code section 154A.7
16 regarding board members' expenses for discharging duties and
17 members' eligibility to receive compensation provided in Code
18 section 7E.6. The bill also eliminates language in Code
19 section 154A.7 regarding a quorum. The language on board
20 members' expenses and compensation is provided in Code section
21 147.24 and the language on a board quorum is provided by Code
22 section 147.14(2).

23 The bill eliminates language regarding the date on which an
24 applicant may obtain a license and deletes the reference to the
25 fee provision in Code section 154A.17.

26 The bill amends Code section 154A.12 regarding the scope of
27 examination to require evidence, rather than a written test, of
28 the applicant's knowledge in areas such as physics of sound,
29 anatomy and physiology of hearing, and function of hearing
30 aids.

31 The bill amends Code section 154A.13 regarding temporary
32 permits and states that only an individual who has not been
33 licensed as a hearing aid dispenser, rather than a person who
34 has not been employed as a hearing aid dispenser, may obtain
35 a temporary permit. The bill also states that a fee for a

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1 temporary permit will be set by the board pursuant to Code
2 section 147.80 rather than Code section 154A.17, which is
3 repealed under the bill.

4 The bill removes language from Code chapter 154A regarding
5 the process for filing a complaint against a licensee or holder
6 of a temporary permit, the hearing process, the required
7 elements of a board's order, the notice of the order, and the
8 right to appeal the board's final order. Under the bill,
9 complaints would be governed by Code chapters 17A, 147, and
10 272C. The bill amends Code section 154A.23 to allow the board
11 to forward a copy of final disciplinary orders along with
12 the complaint to the attorney general for consideration for
13 prosecution or enforcement when warranted.

14 The bill repeals Code section 154A.2 regarding the
15 establishment of the board; Code section 154A.3 regarding
16 terms of board members; Code section 154A.4 regarding duties
17 of the board; Code section 154A.5 regarding public members
18 of the board; Code section 154A.6, regarding disclosure of
19 confidential information (the governing provision in Code
20 section 147.21(2) does not contain a provision which prohibits
21 the disclosure of an applicant's criminal history); Code
22 section 154A.8 regarding duties of the board; Code section
23 154A.9 regarding applications for licensure; Code section
24 154A.11 regarding examinations (however, the governing
25 provision in Code section 147.34 does not require examinations
26 to occur at least once a year and does not require the identity
27 of the applicant to be concealed until after the grading
28 of the exam); Code section 154A.14 concerning reciprocity;
29 Code section 154A.15 concerning license renewal (however,
30 Code section 147.10 does not require the department to mail
31 notice of the expiration date of a license at least a month
32 in advance); and Code section 154A.17 regarding fees. Code
33 section 154A.18, regarding the display of the license is
34 also repealed, however, Code sections 147.6 and 147.7 do not
35 prohibit a person from engaging in business as a hearing aid

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1 dispenser or displaying a sign or advertising to be a hearing
2 aid dispenser without a valid license nor do the Code sections
3 require the license to be conspicuously posted in the person's
4 primary location of practice. The Code sections instead state
5 that a license is presumptive evidence of the right to practice
6 and a board may require every person licensed by the board to
7 publicly display the license and evidence of current renewal.

8 Division III relates to local boards of health. The bill
9 strikes the definition of "sanitation officer". The bill
10 states that the district public health fund budget provisions
11 do not apply to a district board of health or district health
12 department in existence prior to July 1, 2010. The bill
13 repeals the department's duty to publish and distribute
14 its rules to the counties. The bill provides an immediate
15 effective date and retroactive date for the application of
16 the provisions of the health fund budget only to the district
17 boards of health or district health departments in existence
18 prior to July 1, 2010.

19 Division IV relates to reporting on federal grants. The
20 bill requires the department of public health to report to
21 chairpersons and ranking members of the joint appropriations
22 subcommittee on health and human services, the legislative
23 services agency, the legislative caucus staffs, and the
24 department of management within 60 days of applying for or
25 renewing a federal grant valued at over \$100,000, if the grant
26 requires a state match or maintenance of effort. The report
27 must list the federal funding source and address the need
28 for the commitment of state funding to match or continue the
29 funding provided by the federal grant.

30 Division V relates to HIV confidentiality. The bill adds a
31 new provision allowing medical information secured pursuant to
32 Code section 141A.9 to be shared with other state or federal
33 agencies, employees or agents of the department, or with local
34 units of government. The information may be shared when
35 the persons or entities have a need for the information in

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1 the performance of their duties related to HIV prevention,
2 disease surveillance, or care of persons with HIV and only as
3 necessary to administer the program for which the information
4 is collected or to administer a program within the other
5 agency. The confidential information transferred maintains its
6 confidential status and the receiving entity may not rerelease
7 the information.

8 Division VI relates to reporting requirements for hospitals
9 and nursing facilities. The bill repeals Code section
10 135.165, which requires hospitals and nursing facilities that
11 are recognized by the Internal Revenue Code as a nonprofit
12 organization or entity to annually submit a copy of the
13 internal revenue service form 990 to the department of public
14 health and the legislative services agency.

15 Division VII relates to radiological health.

16 The bill allows the department to regulate the operators of
17 radiation machines and users of radioactive material. The bill
18 makes the department's inspection of all radiation machines
19 and radioactive materials in the state permissive rather than
20 mandatory. The bill provides the department is no longer
21 required to evaluate the radiation machine or radioactive
22 material, the electrical hazards, or the adequacy of mechanical
23 supporting and restraining devices.

24 The bill amends Code section 136C.14 to state that a person
25 other than a licensed professional who operates a radiation
26 machine or uses radioactive materials for medical treatment
27 or diagnostic purposes does not need to display his or her
28 credentials, but the person must provide credentials upon
29 request. The bill also provides that a person who owns or
30 controls the machine is no longer responsible for the proper
31 display of such credentials.

32 The bill amends the definitions for "tanning device" and
33 "tanning facility". The bill eliminates language stating that
34 "tanning device" includes accompanying equipment. The bill
35 eliminates the current definition for a tanning facility and

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1 provides that a "tanning facility" is not only a place for
2 providing access to tanning devices for compensation, but
3 also includes a place, area, structure, or business, or any
4 part thereof, that provides access to tanning devices for
5 compensation. The bill specifies that a tanning facility may
6 include but is not limited to a tanning salon, health club,
7 apartment, or condominium.

8 The bill inserts a penalty section into Code chapter 136 and
9 provides for the imposition of a civil penalty not to exceed
10 \$1,000 on persons who violate a provision of the Code chapter,
11 a rule or order issued pursuant to the Code chapter, or a term,
12 condition, or limitation of a registration certificate issued
13 under the Code chapter. A civil penalty could also be imposed
14 on a person who commits a violation for which a registration
15 certificate may be revoked under the rules issued pursuant
16 to the Code chapter. Each day of a continuing violation
17 constitutes a separate offense for purposes of computing the
18 civil penalty; however, there is a maximum penalty of \$5,000
19 for a continuing violation. The department must establish a
20 notification process which includes an opportunity for the
21 person facing the civil penalty to respond in writing within a
22 reasonable time as set by the department. A person upon whom a
23 civil penalty is imposed may appeal pursuant to Code chapter
24 17A. The bill also allows the department to compromise,
25 mitigate, or refund a civil penalty. The department must remit
26 the penalty to the treasurer of state who shall deposit the
27 money into the general fund of the state.



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House Amendment to
Senate Amendment to
House File 609

S-5182

1 Amend the Senate amendment, H-8388, to House File
2 609, as passed by the House, as follows:
3 1. Page 1, after line 4 by inserting:
4 <____. Page 1, after line 4 by inserting:
5 <Sec. _____. Section 557.7, Code 2011, is amended to
6 read as follows:
7 **557.7 Contingent remainders.**
8 A Except as provided in section 558.68A, a
9 contingent remainder shall take effect, notwithstanding
10 any determination of the particular estate, in the same
11 manner in which it would have taken effect if it had
12 been an executory devise or a springing or shifting
13 use, and shall, as well as such limitations, be subject
14 to the rule respecting remoteness known as the rule
15 against perpetuities, ~~exclusive of any other supposed~~
16 ~~rule respecting limitations to successive generations~~
17 ~~or double possibilities.~~
18 Sec. _____. **NEW SECTION. 558.68A Exception to rule**
19 **against perpetuities.**
20 1. Notwithstanding section 558.68, a rule of
21 law against perpetuities, a suspension of the power
22 of alienation of the title to property, or a law
23 restricting or limiting the duration of trusts shall
24 not apply with respect to any interest in real or
25 personal property held in trust if the instrument
26 creating the trust specifically states that such rule
27 or the provisions of section 558.68 shall not apply
28 to the trust and if either the trustee of the trust
29 has unlimited power to sell all trust assets or if one
30 or more persons, one of whom may be the trustee, has
31 unlimited power to terminate the entire trust.
32 2. A trust of real or personal property created
33 by an employer as part of a stock bonus plan, pension
34 plan, disability or death benefit plan, or profit
35 sharing plan, for the benefit of some or all the
36 employer's employees, to which contributions are made
37 by the employer or employees, or both, for the purposes
38 of distributing to the employees or their beneficiaries
39 the earnings or the principal, or both, of such
40 trust is not invalid as violating the rule against
41 perpetuities or any other law restricting or limiting
42 the duration of trusts; but the trust may continue for
43 the time that is necessary to accomplish the purposes
44 for which it was created.
45 3. Subsection 1 shall be effective for interests
46 in real or personal property in trust created by an
47 inter vivos or testamentary trust or will executed on
48 or after July 1, 2012, or pursuant to the exercise of
49 a general power of appointment created on or after
50 July 1, 2012. For the purposes of this subsection,

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1 *"general power of appointment"* means a power that is
2 exercisable in favor of the individual possessing the
3 power, the person's estate, the person's creditors, or
4 the creditors of the person's estate.>>
5 2. Page 5, line 36, after <including> by inserting
6 <trusts of real or personal property,>
7 3. By renumbering as necessary.



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House Amendment to
Senate File 2293

S-5183

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, line 34, by striking <premium> and
4 inserting <premium, less claims paid,>
5 2. By striking page 11, line 8, through page 15,
6 line 14, and inserting:
7 <Sec. _____. Section 514J.102, subsections 1 and 10,
8 Code Supplement 2011, are amended to read as follows:
9 1. "Adverse determination" means a determination
10 by a health carrier that an admission, availability
11 of care, continued stay, or other health care service
12 that is a covered benefit has been reviewed and,
13 based upon the information provided, does not meet the
14 health carrier's requirements for medical necessity,
15 appropriateness, health care setting, level of
16 care, or effectiveness, and the requested service or
17 payment for the service is therefore denied, reduced,
18 or terminated. "Adverse determination" includes a
19 denial of coverage for a dental care service that is
20 a covered benefit that has been reviewed and, based
21 upon the information provided, does not meet the health
22 carrier's requirements for medical necessity, and
23 the requested service or payment for the dental care
24 service is therefore denied, reduced, or terminated,
25 in whole or in part. "Adverse determination" does not
26 include a denial of coverage for a service or treatment
27 specifically listed in plan or evidence of coverage
28 documents as excluded from coverage.
29 10. "Covered benefits" or "benefits" means those
30 health care services and dental care services to which
31 a covered person is entitled under the terms of a
32 health benefit plan.
33 Sec. _____. Section 514J.102, Code Supplement 2011,
34 is amended by adding the following new subsection:
35 NEW SUBSECTION. 11A. "Dental care services" means
36 services for diagnostic, preventive, maintenance, and
37 therapeutic dental care that is provided under chapter
38 153.>
39 3. Page 18, after line 12 by inserting:
40 <Sec. _____. Section 522B.12, Code 2011, is amended
41 by adding the following new subsection:
42 NEW SUBSECTION. 5. A person who enrolls in a
43 qualified health benefit plan offered in this state
44 pursuant to federal law has the option to utilize the
45 services of an insurance producer licensed pursuant
46 to chapter 522B. Qualified health benefit plans
47 offered pursuant to federal law shall pay licensed
48 insurance producers for their services at a level that
49 is commensurate with the compensation paid to insurance
50 producers for the placement, renewal, or enrollment of

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1 persons in health benefit plans offered pursuant to
2 state law.>
3 4. Page 19, after line 14 by inserting:
4 <Sec. _____. NEW SECTION. 522D.1 Definitions.
5 As used in this chapter, unless the context
6 otherwise requires:
7 1. "Commissioner" means the commissioner of
8 insurance.
9 2. "Navigator" means a public or private entity
10 or an individual that is qualified and licensed, if
11 appropriate, to engage in the activities and meet the
12 standards described in 45 C.F.R. § 155.210.
13 Sec. _____. NEW SECTION. 522D.2 License required.
14 A person shall not act as a navigator in this state
15 unless the person is licensed by the commissioner as
16 required in this chapter.
17 Sec. _____. NEW SECTION. 522D.3 Actions prohibited.
18 A navigator shall not perform the functions of a
19 person required to be licensed as an insurance producer
20 under chapter 522B unless the navigator is licensed
21 as a navigator pursuant to this chapter and as an
22 insurance producer pursuant to chapter 522B.
23 Sec. _____. NEW SECTION. 522D.4 Application for
24 examination.
25 1. An individual applying for a navigator license
26 shall pass a written examination. The examination
27 shall test the knowledge of the individual concerning
28 the duties and responsibilities of a navigator and the
29 insurance laws and regulations of this state. The
30 commissioner shall adopt rules pursuant to chapter
31 17A related to the development and conduct of the
32 examination.
33 2. The commissioner may make arrangements,
34 including contracting with an outside testing service
35 or other appropriate entity, for administering
36 examinations and collecting fees.
37 3. An individual applying for an examination shall
38 remit a nonrefundable fee as established by rule of the
39 commissioner.
40 4. An individual who fails to appear for the
41 examination as scheduled or fails to pass the
42 examination shall reapply for an examination and remit
43 all required fees and forms before being rescheduled
44 for another examination.
45 Sec. _____. NEW SECTION. 522D.5 Application for
46 license.
47 1. A person applying for a navigator license shall
48 make application to the commissioner on an application
49 form approved by the commissioner and declare under
50 penalty of refusal, suspension, or revocation of the

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1 license that the statements made on the application
2 are true, correct, and complete to the best of the
3 individual's knowledge and belief. Before approving
4 the application, the commissioner shall find all of the
5 following:
6 a. The individual is at least eighteen years of
7 age.
8 b. The individual has not committed any act that is
9 a ground for denial, suspension, or revocation as set
10 forth in section 522D.7.
11 c. The individual has paid the license fee, as
12 established by the commissioner by rule.
13 d. The individual has successfully completed the
14 initial training and education program for a license as
15 established by the commissioner by rule.
16 e. The individual has successfully passed the
17 examination as provided in section 522D.4.
18 f. In order to protect the public interest, the
19 individual has the requisite character and competence
20 to receive a license as a navigator.
21 2. A public or private entity acting as a navigator
22 may elect to obtain a navigator license. Application
23 shall be made using the application form approved by
24 the commissioner. Prior to approving the application,
25 the commissioner shall find both of the following:
26 a. The entity has paid the appropriate fees.
27 b. The entity has designated a licensed navigator
28 responsible for the entity's compliance with this
29 chapter.
30 Sec. _____. **NEW SECTION. 522D.6 License.**
31 1. A person who meets the requirements of sections
32 522D.4 and 522D.5, unless otherwise denied licensure
33 pursuant to section 522D.7, shall be issued a navigator
34 license. A navigator license is valid for three years.
35 2. A navigator license remains in effect unless
36 revoked or suspended as long as all required fees are
37 paid and continuing education requirements are met by
38 any applicable due date. A navigator is required to
39 complete continuing education requirements required by
40 law in order to be eligible for license renewal.
41 3. A licensed navigator who is unable to comply
42 with license renewal procedures due to military service
43 or other extenuating circumstances may request a waiver
44 of those procedures. The licensed navigator may also
45 request a waiver of any examination requirement or any
46 other penalty or sanction imposed for failure to comply
47 with renewal procedures.
48 4. The license shall contain the licensee's
49 name, address, personal identification number, the
50 date of issuance, the expiration date, and any other

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1 information the commissioner deems necessary.

2 5. A licensee shall inform the commissioner by any
3 means acceptable to the commissioner of a change of
4 legal name or address within thirty days of the change.
5 Failure to timely inform the commissioner of a change
6 of legal name or address may result in a penalty as
7 specified in section 522D.7.

8 6. The commissioner shall require by rule that
9 a licensed navigator furnish a surety bond or other
10 evidence of financial responsibility that protects all
11 persons against wrongful acts, misrepresentations,
12 errors, omissions, or negligence of the navigator.

13 7. In order to assist with the commissioner's
14 duties, the commissioner may contract with a
15 nongovernmental entity, including the national
16 association of insurance commissioners or any affiliate
17 or subsidiary the national association of insurance
18 commissioners oversees, to perform any ministerial
19 functions, including the collection of fees, related
20 to navigator licensing that the commissioner deems
21 appropriate.

22 Sec. _____. NEW SECTION. 522D.7 License denial,
23 nonrenewal, or revocation.

24 1. The commissioner may place on probation,
25 suspend, revoke, or refuse to issue or renew a
26 navigator's license or may levy a civil penalty as
27 provided in section 522D.8 for any one or more of the
28 following causes:

29 a. Providing incorrect, misleading, incomplete,
30 or materially untrue information in the license
31 application.

32 b. Violating any insurance laws, or violating any
33 regulation, subpoena, or order of the commissioner or
34 of a commissioner of another state.

35 c. Obtaining or attempting to obtain a license
36 through misrepresentation or fraud.

37 d. Improperly withholding, misappropriating, or
38 converting any moneys or properties received in the
39 course of doing insurance business.

40 e. Intentionally misrepresenting the terms of an
41 actual or proposed insurance contract or application
42 for insurance.

43 f. Having been convicted of a felony.

44 g. Having admitted or been found to have committed
45 any unfair insurance trade practice or fraud.

46 h. Using fraudulent, coercive, or dishonest
47 practices, or demonstrating incompetence,
48 untrustworthiness, or financial irresponsibility
49 in the conduct of business in this state or elsewhere.

50 i. Having a navigator license, or its equivalent,

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1 denied, suspended, or revoked in any other state,
2 province, district, or territory.
3 j. Forging another's name to an application for
4 insurance or to any document related to an insurance
5 transaction.
6 k. Improperly using notes or any other reference
7 material to complete an examination for a navigator
8 license.
9 l. Failing to comply with an administrative or
10 court order imposing a child support obligation.
11 m. Failing to comply with an administrative or
12 court order related to repayment of loans to the
13 college student aid commission.
14 n. Failing to pay state income tax or comply with
15 any administrative or court order directing payment of
16 state income tax.
17 o. Failing or refusing to cooperate in an
18 investigation by the commissioner.
19 2. If the commissioner does not renew a license or
20 denies an application for a license, the commissioner
21 shall notify the applicant or licensee and advise,
22 in writing, the licensee or applicant of the reason
23 for the nonrenewal of the license or denial of the
24 application for a license. The licensee or applicant
25 may request a hearing on the nonrenewal or denial. A
26 hearing shall be conducted according to section 507B.6.
27 3. The license of a public or private entity
28 operating as a navigator may be suspended, revoked,
29 or refused if the commissioner finds, after hearing,
30 that an individual navigator licensee's violation was
31 known or should have been known by a partner, officer,
32 or manager acting on behalf of the entity and the
33 violation was not reported to the commissioner and
34 corrective action was not taken.
35 4. In addition to, or in lieu of, any applicable
36 denial, suspension, or revocation of a license, a
37 person, after hearing, may be subject to a civil
38 penalty as provided in section 522D.8.
39 5. The commissioner may conduct an investigation
40 of any suspected violation of this chapter pursuant
41 to section 507B.6 and may enforce the provisions and
42 impose any penalty or remedy authorized by this chapter
43 and chapter 507B against any person who is under
44 investigation for, or charged with, a violation of
45 either chapter even if the person's license has been
46 surrendered or has lapsed by operation of law.
47 6. a. In order to assure a free flow of
48 information for accomplishing the purposes of this
49 section, all complaint files, investigation files,
50 other investigation reports, and other investigative

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1 information in the possession of the commissioner or
2 the commissioner's employees or agents that relates to
3 licensee discipline are privileged and confidential,
4 and are not subject to discovery, subpoena, or
5 other means of legal compulsion for their release
6 to a person other than the licensee, and are not
7 admissible in evidence in a judicial or administrative
8 proceeding other than the proceeding involving
9 licensee discipline. A final written decision of the
10 commissioner in a disciplinary proceeding is a public
11 record.

12 *b.* Investigative information in the possession
13 of the commissioner or the commissioner's employees
14 or agents that relates to licensee discipline may
15 be disclosed, in the commissioner's discretion, to
16 appropriate licensing authorities within this state,
17 the appropriate licensing authority in another state,
18 the District of Columbia, or a territory or country in
19 which the licensee is licensed or has applied for a
20 license.

21 *c.* If the investigative information in the
22 possession of the commissioner or the commissioner's
23 employees or agents indicates a crime has been
24 committed, the information shall be reported to the
25 proper law enforcement agency.

26 *d.* Pursuant to the provisions of section 17A.19,
27 subsection 6, upon an appeal by the licensee, the
28 commissioner shall transmit the entire record of the
29 contested case to the reviewing court.

30 *e.* Notwithstanding the provisions of section
31 17A.19, subsection 6, if a waiver of privilege has
32 been involuntary and evidence has been received at a
33 disciplinary hearing, the court shall issue an order to
34 withhold the identity of the individual whose privilege
35 was waived.

36 **Sec. ____.** **NEW SECTION. 522D.8 Cease and desist**
37 **orders — penalties.**

38 1. A navigator who, after hearing, is found to have
39 violated this chapter, may be ordered to cease and
40 desist from engaging in the conduct resulting in the
41 violation and may be assessed a civil penalty pursuant
42 to chapter 507B.

43 2. If a person does not comply with an order issued
44 pursuant to this section, the commissioner may petition
45 a court of competent jurisdiction to enforce the order.
46 The court shall not require the commissioner to post
47 a bond in an action or proceeding under this section.
48 If the court finds, after notice and opportunity for
49 hearing, that the person is not in compliance with an
50 order, the court may adjudge the person to be in civil

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1 contempt of the order. The court may impose a civil
2 penalty against the person for contempt in an amount
3 not less than three thousand dollars but not greater
4 than ten thousand dollars for each violation and may
5 grant any other relief that the court determines is
6 just and proper in the circumstances.

7 Sec. _____. **NEW SECTION. 522D.9 Injunctive relief.**

8 1. A person may bring an action in district court
9 to enjoin another person from acting as a navigator in
10 violation of section 522D.2. However, before bringing
11 an action in district court to enjoin a person pursuant
12 to this section, the person shall file a complaint with
13 the insurance division alleging that another person is
14 acting as a navigator in violation of section 522D.2.

15 2. If the division makes a determination to proceed
16 administratively against the person for a violation
17 of section 522D.2, the complainant shall not bring an
18 action in district court against the person pursuant to
19 this section based upon the allegations contained in
20 the complaint filed with the division.

21 3. If the division does not make a determination
22 to proceed administratively against the person for
23 a violation of section 522D.2, the division shall
24 issue, by ninety days from the date of filing of the
25 complaint, a release to the complainant that permits
26 the complainant to bring an action in district court
27 pursuant to this section.

28 4. The filing of a complaint with the division
29 pursuant to this section tolls the statute of
30 limitations pursuant to section 614.1 as to the alleged
31 violation for a period of one hundred twenty days from
32 the date of filing the complaint.

33 5. Any action brought in district court by a
34 complainant against a person pursuant to this section,
35 based upon the allegations contained in the complaint
36 filed with the division, shall be brought within one
37 year after the ninety-day period following the filing
38 of the complaint with the division, or the date of the
39 issuance of a release by the division, whichever is
40 earlier.

41 6. If the court finds that the person is in
42 violation of section 522D.2 and enjoins the person from
43 acting as a navigator in violation of that section,
44 the court's findings of fact and law, and the judgment
45 and decree, when final, shall be admissible in any
46 proceeding initiated pursuant to section 522D.8 by the
47 commissioner against the person enjoined and the person
48 enjoined shall be precluded from contesting in that
49 proceeding the court's determination that the person
50 acted as a navigator in violation of section 522D.2.

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1 Sec. _____. **NEW SECTION. 522D.10 Rules.**
2 The commissioner may adopt rules pursuant to
3 chapter 17A as are necessary or proper to carry out the
4 purposes of this chapter.
5 Sec. _____. **NEW SECTION. 522D.11 Severability.**
6 If any provision of this chapter or its application
7 to any person or circumstance is held invalid by a
8 court of competent jurisdiction or by federal law,
9 the invalidity does not affect other provisions or
10 applications of the chapter that can be given effect
11 without the invalid provision or application, and to
12 this end the provisions of the chapter are severable
13 and the valid provisions or applications shall remain
14 in full force and effect.
15 Sec. _____. **NEW SECTION. 522D.12 Future repeal.**
16 If the federal law requiring the establishment
17 of an exchange in each state is repealed by federal
18 legislation or is ruled invalid by a decision of the
19 United States supreme court, the commissioner shall
20 notify the Iowa Code editor of the effective date of
21 the repeal or the date of the ruling. This chapter
22 is repealed on the effective date of such federal
23 legislation or the date of the United States supreme
24 court decision.>
25 5. Page 21, by striking lines 1 through 12.
26 6. Page 21, by striking lines 17 and 18.
27 7. Page 21, after line 18 by inserting:
28 Sec. _____. **EFFECTIVE DATE.** The following provision
29 or provisions of this Act take effect July 1, 2013:
30 1. The sections of this Act enacting chapter 522D.>
31 8. By renumbering as necessary.

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Senate File 2331 - Introduced

SENATE FILE 2331
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2223)
(SUCCESSOR TO SSB 3050)

A BILL FOR

1 An Act relating to the regulation of snowmobiles, all-terrain
2 vehicles, and watercraft by the department of natural
3 resources, establishing fees, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 321G.1, Code 2011, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 5A. "*Designated snowmobile trail*" means
4 a snowmobile riding trail on any public land, private land,
5 or public ice that has been designated by the department,
6 a political subdivision, or a controlling authority for
7 snowmobile use.

8 NEW SUBSECTION. 5B. "*Direct supervision*" means to provide
9 supervision of another person while maintaining visual and
10 verbal contact at all times.

11 NEW SUBSECTION. 11A. "*Nonresident*" means a person who is
12 not a resident of this state.

13 NEW SUBSECTION. 15A. "*Public ice*" means any frozen,
14 navigable waters within the territorial limits of this state
15 and the frozen marginal river areas adjacent to this state,
16 other than farm ponds, that are under the jurisdiction of the
17 commission.

18 NEW SUBSECTION. 16A. "*Public water*" means any navigable
19 waters within the territorial limits of this state and the
20 marginal river areas adjacent to this state, other than farm
21 ponds, that are under the jurisdiction of the commission.

22 NEW SUBSECTION. 17A. "*Resident*" means as defined in section
23 483A.1A.

24 Sec. 2. Section 321G.1, subsections 19 and 21, Code 2011,
25 are amended to read as follows:

26 19. ~~"Safety~~ "Education certificate" means a snowmobile
27 ~~safety~~ education certificate, approved by the commission, which
28 is issued to a qualified applicant who is twelve years of age
29 or older.

30 21. "*Special event*" means an organized race, exhibition, or
31 demonstration of limited duration which is conducted on public
32 land, or public ice, or a designated snowmobile trail under
33 the jurisdiction of the commission according to a prearranged
34 schedule and in which general public interest is manifested.

35 Sec. 3. Section 321G.1, Code 2011, is amended by adding the

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1 following new subsection:

2 NEW SUBSECTION. 23. "Water skipping" means the operation
3 of a snowmobile on the surface of water by utilizing the skis,
4 track, and bottom surface area of the snowmobile for flotation
5 while the snowmobile is in motion.

6 Sec. 4. Section 321G.2, subsection 1, paragraphs c, e, f,
7 and h, Code 2011, are amended to read as follows:

8 c. Use of snowmobiles on designated snowmobile trails and
9 public lands under the jurisdiction of the commission.

10 e. Establishment of a program of grants, subgrants,
11 and contracts to be administered by the department for the
12 development, maintenance, signing, and operation of designated
13 snowmobile trails and the operation of grooming equipment by
14 political subdivisions and incorporated private organizations.

15 f. Issuance of safety education certificates.

16 h. Issuance of annual user permits for nonresidents and
17 establishment of administrative fees for issuance of the
18 permits.

19 Sec. 5. Section 321G.2, subsection 1, Code 2011, is amended
20 by adding the following new paragraph:

21 NEW PARAGRAPH. 1. Maintenance, signing, and operation of
22 designated snowmobile trails.

23 Sec. 6. Section 321G.3, Code 2011, is amended to read as
24 follows:

25 **321G.3 Registration required — penalties.**

26 1. Each snowmobile used on public land ~~or, public ice, or a~~
27 designated snowmobile trail of this state shall be currently
28 registered. A person shall not operate, maintain, or give
29 permission for the operation or maintenance of a snowmobile
30 on public land ~~or, public ice, or a designated snowmobile~~
31 trail unless the snowmobile is registered in accordance with
32 this chapter or applicable federal laws or ~~the snowmobile~~
33 ~~displays a current annual user permit decal issued for the~~
34 ~~snowmobile as provided in section 321G.4A~~ in accordance with an
35 approved numbering system of another state and the evidence of



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1 registration is in full force and effect. A snowmobile must
2 also be issued a user permit in accordance with this chapter.

3 ~~2. A registration certificate and registration decal shall~~
4 ~~be assigned, without payment of fee, to snowmobiles owned~~
5 ~~by the state of Iowa or its political subdivisions. The~~
6 ~~registration decal shall be displayed on the snowmobile as~~
7 ~~required under section 321G.5. A registration certificate~~
8 ~~shall be assigned, without payment of a registration fee, for~~
9 ~~a snowmobile which is exempt from registration but is being~~
10 ~~titled, upon payment of a writing fee as provided in section~~
11 ~~321G.27 and an administrative fee. A registration decal shall~~
12 ~~not be issued and the registration shall not expire while the~~
13 ~~snowmobile is exempt. The application for registration and~~
14 ~~the registration certificate shall indicate the reason for~~
15 ~~exemption from the registration fee.~~

16 ~~3.~~ 2. A violation of subsection 1 ~~or~~ 2 is punishable as
17 a scheduled violation under section 805.8B, subsection 2,
18 paragraph "a". When the scheduled fine is paid, the violator
19 shall submit proof to the department that a valid registration
20 ~~or~~ and user permit ~~has~~ have been obtained by providing a copy
21 of the registration ~~or~~ and user permit to the department within
22 thirty days of the date the fine is paid. A person who violates
23 this subsection is guilty of a simple misdemeanor.

24 Sec. 7. Section 321G.4, subsection 2, Code 2011, is amended
25 to read as follows:

26 2. The owner of the snowmobile shall file an application for
27 registration with the department through a the county recorder
28 of the county of residence, or in the case of a nonresident
29 owner, in the county of primary use, in the manner established
30 by the commission. The application shall be completed by the
31 owner and shall be accompanied by a fee of fifteen dollars and
32 a writing fee as provided in section 321G.27. A snowmobile
33 shall not be registered by the county recorder until the
34 county recorder is presented with receipts, bills of sale,
35 or other satisfactory evidence that the sales or use tax has

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1 been paid for the purchase of the snowmobile or that the
2 owner is exempt from paying the tax. A snowmobile that has
3 an expired registration certificate from another state may be
4 registered in this state upon proper application, payment of
5 all applicable registration and writing fees, and payment of a
6 penalty of five dollars.

7 Sec. 8. Section 321G.4A, subsection 1, Code 2011, is amended
8 to read as follows:

9 1. A ~~nonresident~~ person wishing to operate a snowmobile,
10 ~~other than a snowmobile registered pursuant to this chapter,~~
11 snowmobile on public land, or public ice, or a designated
12 snowmobile trail of this state shall ~~first~~ obtain a user permit
13 from the department. A user permit shall be issued for the use
14 on only one snowmobile ~~specified at the time of application~~
15 and is not transferable. A user permit shall be valid for the
16 calendar year or time period specified in the permit.

17 Sec. 9. Section 321G.5, Code 2011, is amended to read as
18 follows:

19 **321G.5 Display of registration and user permit decals.**

20 The owner of a snowmobile shall display the registration
21 decal ~~or nonresident~~ and user permit decal on a the snowmobile
22 in the manner prescribed by the rules of the commission.

23 Sec. 10. Section 321G.6, subsection 3, Code 2011, is amended
24 to read as follows:

25 3. Duplicate registrations may be issued ~~upon application~~
26 ~~to the~~ by a county recorder ~~and or a license agent upon~~ the
27 payment of a five dollar fee plus a writing fee as provided in
28 section 321G.27.

29 Sec. 11. Section 321G.7, subsection 1, Code 2011, is amended
30 to read as follows:

31 1. A county recorder or license agent shall remit to the
32 commission the snowmobile fees collected by the recorder
33 or license agent in the manner and time prescribed by the
34 department.

35 Sec. 12. Section 321G.8, unnumbered paragraph 1, Code 2011,

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1 is amended to read as follows:

2 Registration and user permits shall not be required for the
3 following described snowmobiles:

4 Sec. 13. Section 321G.8, subsection 1, Code 2011, is amended
5 to read as follows:

6 1. Snowmobiles owned ~~and used~~ by the United States, this
7 state, or another state, or by a political governmental
8 subdivision of another state thereof, and used for enforcement,
9 search and rescue, or official research and studies, but not
10 for recreational or commercial purposes.

11 Sec. 14. Section 321G.9, subsection 6, Code 2011, is amended
12 by striking the subsection.

13 Sec. 15. Section 321G.10, Code Supplement 2011, is amended
14 to read as follows:

15 **321G.10 Accident reports.**

16 If a snowmobile is involved in an accident resulting in
17 injury or death to anyone or property damage amounting to one
18 thousand five hundred dollars or more, either the operator
19 or someone acting for the operator shall immediately notify
20 the county sheriff or another law enforcement agency in the
21 state. If the accident occurred on public land, ~~or public~~
22 ice, or a designated snowmobile trail under the jurisdiction
23 of the commission, the operator shall file with the commission
24 a report of the accident, within seventy-two hours, containing
25 information as the commission may require. All other accidents
26 shall be reported as required under section 321.266.

27 Sec. 16. Section 321G.12, Code 2011, is amended to read as
28 follows:

29 **321G.12 ~~Headlamp — tail lamp~~ Headlight — taillight —**
30 **brakes.**

31 Every snowmobile shall be equipped with at least one
32 ~~headlamp~~ headlight and one ~~tail lamp~~ taillight. Every
33 snowmobile shall be equipped with brakes.

34 Sec. 17. Section 321G.13, subsection 1, paragraph f, Code
35 2011, is amended to read as follows:

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1 *f.* On any public land, public ice, or ~~snow~~ designated
2 snowmobile trail, in violation of official signs of the
3 commission prohibiting such operation in the interest of
4 safety for persons, property, or the environment. Any officer
5 appointed by the commission may post an official sign in an
6 emergency for the protection of persons, property, or the
7 environment.

8 Sec. 18. Section 321G.13, subsection 1, Code 2011, is
9 amended by adding the following new paragraph:

10 NEW PARAGRAPH. *i.* Upon the surface of any public water in a
11 maneuver known as water skipping. This paragraph "*i*" does not
12 apply to operation on rivers or streams between November 1 and
13 April 1.

14 Sec. 19. Section 321G.13, subsection 3, Code 2011, is
15 amended to read as follows:

16 3. A person shall not drive or operate a snowmobile
17 on public land or a designated snowmobile trail without a
18 measurable snow cover.

19 Sec. 20. Section 321G.17, Code 2011, is amended to read as
20 follows:

21 **321G.17 Violation of stop signal.**

22 A person, ~~after having who has~~ received a visual or audible
23 signal from a peace officer to come to a stop, shall not
24 operate a snowmobile in willful or wanton disregard of the
25 signal, ~~or~~ interfere with or endanger the officer or any other
26 person or vehicle, ~~or~~ increase speed, or attempt to flee or
27 elude the officer.

28 Sec. 21. Section 321G.20, Code 2011, is amended to read as
29 follows:

30 **321G.20 ~~Minors under twelve~~ Operation by minors.**

31 1. An owner or operator of a snowmobile shall not permit
32 a person under twelve years of age to operate and a person
33 less than twelve years of age shall not operate, a snowmobile
34 on a designated snowmobile trail, public land, or public ice
35 except when accompanied on the same snowmobile by a responsible



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1 person of at least eighteen years of age who is experienced
2 in snowmobile operation and who possesses a valid driver's
3 license, as defined in section 321.1, or ~~a safety~~ an education
4 certificate issued under this chapter.

5 2. While operating a snowmobile on a designated snowmobile
6 trail, public land, or public ice, a person twelve through
7 fifteen years of age and possessing a valid education
8 certificate must be under the direct supervision of a parent,
9 guardian, or another adult authorized by the parent or
10 guardian, who is experienced in snowmobile operation and
11 possesses a valid driver's license, as defined in section
12 321.1, or an education certificate issued under this chapter.

13 3. A person under eighteen years of age but over the age of
14 fifteen shall not operate a snowmobile on or across a public
15 highway unless the person has in the person's possession an
16 education certificate issued to the person pursuant to this
17 chapter.

18 Sec. 22. Section 321G.21, subsections 1 through 5, Code
19 2011, are amended to read as follows:

20 1. A manufacturer, distributor, or dealer owning a
21 snowmobile required to be registered under this chapter
22 may operate the snowmobile for purposes of transporting,
23 testing, demonstrating, or selling it without the snowmobile
24 being registered, except that a ~~special identification~~
25 ~~number~~ registration decal issued to the owner as provided
26 in this chapter shall be displayed on the snowmobile in the
27 manner prescribed by rules of the commission. The special
28 ~~identification number~~ registration decal shall not be used
29 on a snowmobile offered for hire or for any work or service
30 performed by a manufacturer, distributor, or dealer.

31 2. Every manufacturer, distributor, or dealer shall
32 register with the department by making application to the
33 commission, upon forms prescribed by the commission, for
34 a special registration certificate ~~containing a general~~
35 ~~identification number and for one or more duplicate special~~

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1 ~~registration certificates and decal.~~ The applicant shall pay
2 a registration fee of ~~fifteen~~ forty-five dollars and submit
3 reasonable proof of the applicant's status as a bona fide
4 manufacturer, distributor, or dealer as may be required by the
5 commission.

6 3. The commission, upon granting an application, shall
7 issue to the applicant a special registration certificate
8 ~~containing and decal.~~ The special registration certificate
9 shall contain the applicant's name, and address, the and
10 general identification number; assigned to the applicant, the
11 word "manufacturer", "dealer", or "distributor"; and other
12 information the commission prescribes. The manufacturer,
13 distributor, or dealer shall have the assigned number printed
14 upon or attached to a removable sign or signs which may be
15 temporarily but firmly mounted or attached to the snowmobile
16 being used. The display shall meet the requirements of this
17 chapter and the rules of the commission.

18 4. The commission shall also issue duplicate special
19 registration certificates and decals which shall have displayed
20 thereon the general identification number assigned to the
21 applicant. ~~Each duplicate registration certificate so issued~~
22 ~~shall contain a number or symbol identifying it from every~~
23 ~~other duplicate special registration certificate bearing the~~
24 ~~same general identification number. A county recorder may~~
25 issue duplicate special registration certificates and decals
26 electronically pursuant to rules adopted by the commission.
27 The fee for each additional duplicate special registration
28 certificate and decal shall be ~~two~~ five dollars, plus a writing
29 fee.

30 5. Each special registration certificate issued hereunder
31 under this section shall be for a period of three years and
32 shall expire on December 31 of each the renewal year, and
33 a. A new special registration certificate for the ensuing
34 ~~twelve months~~ three-year renewal period may be obtained upon
35 application to the commission and payment of the fee provided



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1 by law. A county recorder may issue special registration
2 certificate renewals electronically pursuant to rules adopted
3 by the commission.

4 Sec. 23. Section 321G.23, Code 2011, is amended to read as
5 follows:

6 **321G.23 Course of instruction.**

7 1. The commission shall provide, by rules adopted pursuant
8 to section 321G.2, for the establishment of certified courses
9 of instruction to be conducted throughout the state for the
10 safe use and operation of snowmobiles. The curriculum shall
11 include instruction in the lawful and safe use, operation, and
12 equipping of snowmobiles consistent with this chapter and rules
13 adopted by the commission and the director of transportation
14 and other matters the commission deems pertinent for a
15 qualified snowmobile operator. The commission may establish
16 a fee for the course which shall not exceed the actual cost of
17 instruction minus moneys received by the department from ~~safety~~
18 education certificate fees under section 321G.24.

19 2. The commission may certify any experienced, qualified
20 operator to be an instructor of a class established under
21 subsection 1. Each instructor shall be at least eighteen years
22 of age.

23 3. Upon completion of the course of instruction, the
24 commission shall provide for the administration of a written
25 test to any student who wishes to qualify for ~~a safety~~ an
26 education certificate.

27 4. The commission shall provide ~~safety~~ education material
28 relating to the operation of snowmobiles for the use of
29 nonpublic or public elementary and secondary schools in this
30 state.

31 5. The department may develop requirements and standards
32 for online education offerings. Only vendors who have entered
33 into a memorandum of understanding with the department
34 shall be permitted to offer an online course that results
35 in the issuance of an education certificate approved by the



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1 commission. Vendors may charge for their courses and collect
2 the education certificate fee required under section 321G.24,
3 subsection 2, on behalf of the department as agreed to in the
4 memorandum of understanding.

5 Sec. 24. Section 321G.24, Code 2011, is amended to read as
6 follows:

7 **321G.24 Safety Education certificate — fee.**

8 1. A person under eighteen years of age shall not
9 operate a snowmobile on public land, or public ice, a
10 designated snowmobile trail, or land purchased with snowmobile
11 registration funds in this state without obtaining a valid
12 safety education certificate ~~issued~~ approved by the department
13 and having the certificate in the person's possession,
14 unless the person is accompanied on the same snowmobile by
15 a responsible person of at least eighteen years of age who
16 is experienced in snowmobile operation and possesses a valid
17 driver's license, as defined in section 321.1, or ~~a safety an~~
18 education certificate issued under this chapter.

19 2. Upon ~~application~~ successful completion of the course
20 and payment of a fee of five dollars, a qualified applicant
21 shall be issued ~~a safety an~~ an education certificate which is
22 valid until the certificate is suspended or revoked by the
23 director for a violation of a provision of this chapter or a
24 rule adopted pursuant to this chapter. ~~The application shall~~
25 ~~be made on forms issued by the commission and shall contain~~
26 ~~information as the commission may reasonably require.~~

27 3. Any person who is required to have ~~a safety an~~ an education
28 certificate under this chapter and who has completed a course
29 of instruction established under section 321G.2, subsection
30 1, paragraph "j", including the successful passage of an
31 examination which includes a written test relating to such
32 course of instruction, shall be considered qualified to receive
33 ~~a safety an~~ an education certificate.

34 4. The ~~permit~~ certificate fees collected under this section
35 shall be credited to the special snowmobile fund created under

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1 section 321G.7 and shall be used for safety and educational
2 programs.

3 5. A valid snowmobile safety or education certificate or
4 license issued ~~to a nonresident~~ by a governmental authority
5 of another state shall be considered a valid certificate or
6 license in this state if the permit certification or license
7 licensing requirements of the governmental authority, ~~excluding~~
8 ~~fees~~, are substantially the same as the requirements of this
9 chapter as determined by the commission.

10 Sec. 25. Section 321G.25, Code 2011, is amended to read as
11 follows:

12 **321G.25 Stopping and inspecting — warnings.**

13 A peace officer may stop and inspect a snowmobile operated,
14 parked, or stored on public streets, highways, public lands,
15 ~~or frozen waters~~ public ice, or designated snowmobile trails
16 of the state to determine if the snowmobile is registered,
17 numbered, or equipped as required by this chapter and
18 commission rules. The officer shall not inspect an area that
19 is not essential to determine compliance with the requirements.
20 If the officer determines that the snowmobile is not in
21 compliance, the officer may issue a warning memorandum to the
22 operator and forward a copy to the commission. The warning
23 memorandum shall indicate the items found not in compliance and
24 shall direct the owner or operator of the snowmobile to have
25 the snowmobile in compliance and return a copy of the warning
26 memorandum with the proof of compliance to the commission
27 within fourteen days. If the proof of compliance is not
28 provided within fourteen days, the owner or operator is in
29 violation of this chapter.

30 Sec. 26. Section 321G.26, Code 2011, is amended to read as
31 follows:

32 **321G.26 Termination of use.**

33 A person who receives a warning memorandum for a snowmobile
34 shall stop using the snowmobile as soon as possible and shall
35 not operate it on public streets, highways, public lands, ~~or~~

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1 ~~frozen waters~~ public ice, or designated snowmobile trails of
2 the state until the snowmobile is in compliance.

3 Sec. 27. Section 321G.27, subsection 1, Code 2011, is
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. *0c.* The county recorder shall collect
6 a writing fee of one dollar and twenty-five cents for each
7 duplicate special registration certificate issued by the county
8 recorder's office.

9 Sec. 28. Section 321G.29, subsection 8, Code Supplement
10 2011, is amended to read as follows:

11 8. Once titled, a person shall not sell or transfer
12 ownership of a snowmobile without delivering to the purchaser
13 or transferee a certificate of title with an assignment on it
14 showing title in the ~~purchaser or transferee~~ purchaser's or
15 transferee's name. A person shall not purchase or otherwise
16 acquire a snowmobile without obtaining a certificate of title
17 for it in that person's name.

18 Sec. 29. Section 321G.31, subsection 1, Code 2011, is
19 amended to read as follows:

20 1. If ownership of a snowmobile is transferred by
21 operation of law, such as by inheritance, order in bankruptcy,
22 insolvency, replevin, or execution sale, the transferee, within
23 thirty days after acquiring the right to possession of the
24 snowmobile, shall mail or deliver to the county recorder of
25 the transferee's county of residence satisfactory proof of
26 ownership as the county recorder requires, together with an
27 application for a new certificate of title, and the required
28 fee.

29 Sec. 30. Section 321G.33, subsections 1 and 3, Code 2011,
30 are amended to read as follows:

31 1. The department may assign a distinguishing number to
32 a snowmobile when the serial number on the snowmobile is
33 destroyed or obliterated and issue to the owner a special
34 plate decal bearing the distinguishing number which shall be
35 affixed to the snowmobile in a position to be determined by

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1 the department. The snowmobile shall be registered and titled
2 under the distinguishing number in lieu of the former serial
3 number. Every snowmobile shall have a vehicle identification
4 number assigned and affixed as required by the department.

5 3. A person shall not destroy, remove, alter, cover, or
6 deface the manufacturer's vehicle identification number, the
7 plate or decal bearing it, or any vehicle identification number
8 the department assigns to a snowmobile without the department's
9 permission.

10 Sec. 31. Section 321I.1, subsection 1, paragraph b, Code
11 2011, is amended to read as follows:

12 b. Off-road motorcycles shall be considered all-terrain
13 vehicles for the purpose of registration. Off-road motorcycles
14 shall also be considered all-terrain vehicles for the purpose
15 of titling if a title has not previously been issued pursuant
16 to chapter 321. An operator of an off-road motorcycle is
17 subject to provisions governing the operation of all-terrain
18 vehicles in this chapter, but is exempt from the ~~safety~~
19 education instruction and certification program requirements of
20 sections 321I.25 and 321I.26.

21 Sec. 32. Section 321I.1, subsections 6, 7, and 16, Code
22 2011, are amended to read as follows:

23 6. "*Designated riding area*" means an all-terrain vehicle
24 riding area on any public land or public ice under the
25 jurisdiction of the department that has been designated by the
26 department for all-terrain vehicle use.

27 7. "*Designated riding trail*" means an all-terrain vehicle
28 riding trail on any public land, private land, or public
29 ~~ice under the jurisdiction of the department~~ that has been
30 designated by the department, a political subdivision, or a
31 controlling authority for all-terrain vehicle use.

32 16. a. "*Off-road utility vehicle*" means a motorized
33 ~~flotation-tire~~ vehicle with not less than four and not more
34 than eight ~~low-pressure~~ nonhighway tires or rubberized tracks
35 that is limited in engine displacement to less than one

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1 thousand five hundred cubic centimeters and in total dry weight
2 to not more than ~~one~~ two thousand ~~eight hundred~~ pounds and that
3 has a seat that is of bucket or bench design, not intended to
4 be straddled by the operator, and a steering wheel or control
5 levers for control.

6 ~~b. An owner of an off-road utility vehicle may register~~
7 ~~or title an off-road utility vehicle in order to legally~~
8 ~~operate the off-road vehicle on public ice, a designated~~
9 ~~riding area, or a designated riding trail.~~ The operator of an
10 off-road utility vehicle is subject to provisions governing
11 the operation of all-terrain vehicles in section 321.234A, ~~and~~
12 this chapter, ~~and administrative rules,~~ but is exempt from
13 the ~~safety education~~ instruction and certification program
14 requirements of sections 321I.25 and 321I.26. An operator of
15 an off-road utility vehicle shall not operate the vehicle on a
16 designated riding area or designated riding trail unless the
17 department has posted signage indicating the riding area or
18 trail is open to the operation of off-road utility vehicles.
19 Off-road utility vehicles are ~~exempt from~~ subject to the dealer
20 registration and titling requirements of this chapter. A
21 motorized vehicle that was previously titled or is currently
22 titled under chapter 321 shall not be registered or operated
23 as an off-road utility vehicle.

24 Sec. 33. Section 321I.1, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 20A. "*Public ice*" means any frozen,
27 navigable waters within the territorial limits of this state
28 and the frozen marginal river areas adjacent to this state,
29 other than farm ponds, that are under the jurisdiction of the
30 commission.

31 Sec. 34. Section 321I.1, subsections 23, 25, and 27, Code
32 2011, are amended to read as follows:

33 23. "*Resident*" means ~~a person who meets the requirements~~
34 ~~for residency described in section 321.1A~~ as defined in section
35 483A.1A.



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1 25. *"~~Safety Education~~ certificate"* means an all-terrain
2 vehicle ~~safety education~~ certificate, approved by the
3 commission, which is issued to a qualified applicant who is
4 twelve years of age or older.

5 27. *"~~Special event~~"* means an organized race, exhibition,
6 or demonstration of limited duration which is conducted on
7 public land, ~~or public ice~~, or a designated riding trail under
8 the jurisdiction of the commission according to a prearranged
9 schedule and in which general public interest is manifested.

10 Sec. 35. Section 321I.2, subsection 1, paragraph f, Code
11 2011, is amended to read as follows:

12 ~~f.~~ Issuance of ~~safety education~~ certificates.

13 Sec. 36. Section 321I.3, Code 2011, is amended to read as
14 follows:

15 **321I.3 Registration required — penalties.**

16 1. Each all-terrain vehicle used on public land, ~~or public~~
17 ice, ~~or a designated riding trail~~ of this state shall be
18 currently registered. A person shall not operate, maintain,
19 or give permission for the operation or maintenance of an
20 all-terrain vehicle on public land, ~~or public ice~~, or a
21 ~~designated riding trail~~ unless the all-terrain vehicle is
22 registered in accordance with this chapter or applicable
23 federal laws or ~~the all-terrain vehicle displays a current~~
24 ~~annual user permit decal issued for the all-terrain vehicle~~
25 ~~as provided in section 321I.5~~ in accordance with an approved
26 numbering system of another state and the evidence of
27 registration is in full force and effect. An all-terrain
28 vehicle registered in another state must also be issued a user
29 permit in this state in accordance with this chapter.

30 ~~2. A registration certificate and registration decal~~
31 ~~shall be assigned, without payment of fee, to all-terrain~~
32 ~~vehicles owned by the state of Iowa or its political~~
33 ~~subdivisions. The registration decal shall be displayed on~~
34 ~~the all-terrain vehicle as required under section 321I.6. A~~
35 ~~registration certificate shall be assigned, without payment~~

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~~1 of a registration fee, for an all-terrain vehicle which is
2 exempt from registration but is being titled, upon payment
3 of a writing fee as provided in section 321I.29 and an
4 administrative fee. A registration decal shall not be issued
5 and the registration shall not expire while the all-terrain
6 vehicle is exempt. The application for registration and
7 the registration certificate shall indicate the reason for
8 exemption from the registration fee.~~

9 3- 2. A violation of subsection 1 or 2 is punishable as
10 a scheduled violation under section 805.8B, subsection 2A,
11 paragraph "a". When the scheduled fine is paid, the violator
12 shall submit proof to the department that a valid registration
13 or user permit has been obtained by providing a copy of the
14 registration or user permit to the department within thirty
15 days of the date the fine is paid. A person who violates this
16 subsection is guilty of a simple misdemeanor.

17 Sec. 37. Section 321I.4, subsection 2, Code 2011, is amended
18 to read as follows:

19 2. The owner of the all-terrain vehicle shall file an
20 application for registration with the department through a the
21 county recorder of the county of residence, or in the case
22 of a nonresident owner, in the county of primary use, in the
23 manner established by the commission. The application shall
24 be completed by the owner and shall be accompanied by a fee
25 of fifteen dollars and a writing fee as provided in section
26 321I.29. An all-terrain vehicle shall not be registered by the
27 county recorder until the county recorder is presented with
28 receipts, bills of sale, or other satisfactory evidence that
29 the sales or use tax has been paid for the purchase of the
30 all-terrain vehicle or that the owner is exempt from paying the
31 tax. An all-terrain vehicle that has an expired registration
32 certificate from another state may be registered in this state
33 upon proper application, payment of all applicable registration
34 and writing fees, and payment of a penalty of five dollars.

35 Sec. 38. Section 321I.5, subsection 1, Code 2011, is amended

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1 to read as follows:

2 1. A nonresident wishing to operate an all-terrain vehicle,
3 other than an all-terrain vehicle ~~owned by a resident and~~
4 registered pursuant to this chapter, on public land, or public
5 ice, or a designated riding trail of this state shall ~~first~~
6 obtain a user permit from the department. A user permit shall
7 be issued for the use on only one all-terrain vehicle ~~specified~~
8 ~~at the time of application~~ and is not transferable. A user
9 permit shall be valid for the calendar year or time period
10 specified in the permit.

11 Sec. 39. Section 321I.7, subsections 3 and 4, Code 2011, are
12 amended to read as follows:

13 3. Duplicate registrations may be issued ~~upon application~~
14 ~~to the~~ by a county recorder or a license agent and the payment
15 of a five dollar fee plus a writing fee as provided in section
16 321I.29.

17 4. A motorcycle, as defined in section 321.1, subsection
18 40, paragraph "a", may be registered as an all-terrain vehicle
19 as provided in this section. A motorcycle registered as an
20 all-terrain vehicle may participate in all programs established
21 for all-terrain vehicles under this chapter except for the
22 safety education instruction and certification program.

23 Sec. 40. Section 321I.8, Code 2011, is amended to read as
24 follows:

25 **321I.8 Fees remitted to commission — appropriation.**

26 1. A county recorder or license agent shall remit to the
27 commission the all-terrain vehicle fees collected by the
28 recorder or license agent in the manner and time prescribed by
29 the department.

30 2. The department shall remit the fees, including user
31 fees collected pursuant to section 321I.5, to the treasurer
32 of state, who shall place the money in a special all-terrain
33 vehicle fund. The money is appropriated to the department for
34 the all-terrain vehicle programs of the state. The programs
35 shall include grants, subgrants, contracts, or cost-sharing

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1 of all-terrain vehicle programs with political subdivisions
2 or incorporated private organizations or both in accordance
3 with rules adopted by the commission. All-terrain vehicle fees
4 may be used for the establishment, maintenance, and operation
5 of all-terrain vehicle recreational riding areas through the
6 awarding of grants administered by the department. All-terrain
7 vehicle recreational riding areas established, maintained, or
8 operated by the use of such grants shall not be operated for
9 profit. All programs using cost-sharing, grants, subgrants, or
10 contracts shall establish and implement a safety an education
11 instruction program either singly or in cooperation with other
12 all-terrain vehicle programs. All-terrain vehicle fees may
13 be used to support all-terrain vehicle programs on a usage
14 basis. At least fifty percent of the special fund shall be
15 available for political subdivisions or incorporated private
16 organizations or both. Moneys from the special fund not
17 used by the political subdivisions or incorporated private
18 organizations or both shall remain in the fund and may be used
19 by the department for the administration of the all-terrain
20 vehicle programs. Notwithstanding section 8.33, moneys in the
21 special fund shall not revert to the general fund of the state
22 at the end of a fiscal year. Notwithstanding section 12C.7,
23 subsection 2, interest or earnings on moneys in the special
24 fund shall remain in the fund.

25 Sec. 41. Section 321I.9, subsection 1, Code 2011, is amended
26 to read as follows:

27 1. All-terrain vehicles owned ~~and used~~ by the United States,
28 this state, or another state, or by a political governmental
29 subdivision of another state thereof, and used for enforcement,
30 search and rescue, or official research and studies, but not
31 for recreational or commercial purposes.

32 Sec. 42. Section 321I.11, Code Supplement 2011, is amended
33 to read as follows:

34 **321I.11 Accident reports.**

35 If an all-terrain vehicle is involved in an accident

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1 resulting in injury or death to anyone or property damage
2 amounting to one thousand five hundred dollars or more,
3 either the operator or someone acting for the operator
4 shall immediately notify the county sheriff or another law
5 enforcement agency in the state. If the accident occurred
6 on public land, ~~or public ice~~, or a designated riding trail
7 under the jurisdiction of the commission, the operator shall
8 file with the commission a report of the accident, within
9 seventy-two hours, containing information as the commission may
10 require. All other accidents shall be reported as required
11 under section 321.266.

12 Sec. 43. Section 321I.13, Code 2011, is amended to read as
13 follows:

14 **321I.13 ~~Headlamp — tail lamp~~ Headlight — taillight —**
15 **brakes.**

16 Every all-terrain vehicle operated during the hours of
17 darkness shall display a lighted ~~headlamp~~ headlight and ~~tail~~
18 ~~lamp~~ taillight. Every all-terrain vehicle shall be equipped
19 with brakes.

20 Sec. 44. Section 321I.14, subsection 1, paragraph f, Code
21 2011, is amended to read as follows:

22 *f.* On any public land, public ice, or ~~snow~~ designated
23 riding trail, in violation of official signs of the commission
24 prohibiting such operation in the interest of safety for
25 persons, property, or the environment. Any officer appointed
26 by the commission may post an official sign in an emergency for
27 the protection of persons, property, or the environment.

28 Sec. 45. Section 321I.17, Code 2011, is amended to read as
29 follows:

30 **321I.17 Special events.**

31 The department may authorize the holding of organized
32 special events as defined in this chapter within this state.
33 The department shall adopt rules relating to the conduct of
34 special events held under department permits and designating
35 the equipment and facilities necessary for the safe operation



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1 of all-terrain vehicles ~~or~~, off-road motorcycles, and off-road
2 utility vehicles and for the safety of operators, participants,
3 and observers in the special events. A special event ~~for~~
4 ~~all-terrain vehicles~~ may ~~include motorcycles upon payment~~
5 ~~of~~ require an entrance fee set by the organizer of the
6 special event. The department may require that part of the
7 ~~motorcycle~~ entrance fee be credited to pay costs of all-terrain
8 vehicle programs authorized pursuant to section 321I.8. At
9 least thirty days before the scheduled date of a special
10 event in this state, an application shall be filed with the
11 department for authorization to conduct the special event. The
12 application shall set forth the date, time, and location of the
13 proposed special event and any other information the department
14 requires. The special event shall not be conducted without
15 written authorization of the department. ~~Copies of the rules~~
16 ~~shall be furnished by the department to any person making an~~
17 ~~application.~~

18 Sec. 46. Section 321I.18, Code 2011, is amended to read as
19 follows:

20 **321I.18 Violation of stop signal.**

21 A person, ~~after having~~ who has received a visual or audible
22 signal from a peace officer to come to a stop, shall not
23 operate an all-terrain vehicle in willful or wanton disregard
24 of the signal, ~~or~~ interfere with or endanger the officer or any
25 other person or vehicle, ~~or~~ increase speed, or attempt to flee
26 or elude the officer.

27 Sec. 47. Section 321I.21, unnumbered paragraph 1, Code
28 2011, is amended to read as follows:

29 A person under twelve years of age shall not operate an
30 all-terrain vehicle, including an off-road motorcycle, on a
31 designated riding area or designated riding trail or on public
32 land or public ice unless one of the following applies:

33 Sec. 48. Section 321I.21, subsection 1, Code 2011, is
34 amended to read as follows:

35 1. The person is taking a prescribed ~~safety~~ education

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1 training course and the operation is under the direct
2 supervision of a certified all-terrain vehicle ~~safety~~ education
3 instructor.

4 Sec. 49. Section 321I.22, subsections 1 through 5, Code
5 2011, are amended to read as follows:

6 1. A manufacturer, distributor, or dealer owning an
7 all-terrain vehicle required to be registered under this
8 chapter may operate the all-terrain vehicle for purposes of
9 transporting, testing, demonstrating, or selling it without the
10 all-terrain vehicle being registered, except that a special
11 ~~identification number~~ registration decal issued to the owner as
12 provided in this chapter shall be displayed on the all-terrain
13 vehicle in the manner prescribed by rules of the commission.
14 The special ~~identification number~~ registration decal shall not
15 be used on an all-terrain vehicle offered for hire or for any
16 work or service performed by a manufacturer, distributor, or
17 dealer.

18 2. Every manufacturer, distributor, or dealer shall
19 register with the department by making application to the
20 commission, upon forms prescribed by the commission, for
21 a special registration certificate ~~containing a general~~
22 ~~identification number and for one or more duplicate special~~
23 ~~registration certificates and decal~~. The applicant shall pay
24 a registration fee of ~~fifteen~~ forty-five dollars and submit
25 reasonable proof of the applicant's status as a bona fide
26 manufacturer, distributor, or dealer as may be required by the
27 commission.

28 3. The commission, upon granting an application, shall
29 issue to the applicant a special registration certificate
30 ~~containing and decal~~. The special registration certificate
31 shall contain the applicant's name, and address, the and
32 general identification number; assigned to the applicant, the
33 word "manufacturer", "dealer", or "distributor"; and other
34 information the commission prescribes. The manufacturer,
35 distributor, or dealer shall have the assigned number printed

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~~1 upon or attached to a removable sign or signs which may be
2 temporarily but firmly mounted or attached to the all-terrain
3 vehicle being used. The display shall meet the requirements of
4 this chapter and the rules of the commission.~~

5 4. The commission shall also issue duplicate special
6 registration certificates and decals which shall have displayed
7 thereon the general identification number assigned to the
8 applicant. ~~Each duplicate registration certificate so issued
9 shall contain a number or symbol identifying it from every
10 other duplicate special registration certificate bearing the
11 same general identification number.~~ A county recorder may
12 issue duplicate special registration certificates and decals
13 electronically pursuant to rules adopted by the commission.
14 The fee for each additional duplicate special registration
15 certificate and decal shall be ~~two~~ five dollars plus a writing
16 fee.

17 5. Each special registration certificate issued ~~hereunder~~
18 under this section shall be for a period of three years and
19 shall expire on December 31 of each the renewal year, and
20 a. A new special registration certificate for the ensuing
21 ~~twelve months~~ three-year renewal period may be obtained upon
22 application to the commission and payment of the fee provided
23 by law. A county recorder may issue special registration
24 certificate renewals electronically pursuant to rules adopted
25 by the commission.

26 Sec. 50. Section 321I.25, Code 2011, is amended to read as
27 follows:

28 **321I.25 Course of instruction.**

29 1. The commission shall provide, by rules adopted pursuant
30 to section 321I.2, for the establishment of certified courses
31 of instruction to be conducted throughout the state for the
32 safe use and operation of all-terrain vehicles. The curriculum
33 shall include instruction in the lawful and safe use,
34 operation, and equipping of all-terrain vehicles consistent
35 with this chapter and rules adopted by the commission ~~and the~~

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1 ~~director of transportation and other matters the commission~~
2 ~~deems pertinent for a qualified all-terrain vehicle operator.~~
3 The commission may establish a fee for the course which shall
4 not exceed the actual cost of instruction minus moneys received
5 by the department from safety education certificate fees under
6 section 321I.26.

7 2. The commission may certify any experienced, qualified
8 operator to be an instructor of a class established under
9 subsection 1. Each instructor shall be at least eighteen years
10 of age.

11 3. Upon completion of the course of instruction, the
12 commission shall provide for the administration of either a
13 written test or the demonstration of adequate riding skills to
14 any student who wishes to qualify for a safety an education
15 certificate.

16 4. The commission shall provide safety education material
17 relating to the operation of all-terrain vehicles for the use
18 of nonpublic or public elementary and secondary schools in this
19 state.

20 5. The department may develop requirements and standards
21 for online education offerings. Only vendors who have entered
22 into a memorandum of understanding with the department
23 shall be permitted to offer an online course that results
24 in the issuance of an education certificate approved by the
25 commission. Vendors may charge for their courses and collect
26 the education certificate fee required under section 321I.26,
27 subsection 2, on behalf of the department as agreed to in the
28 memorandum of understanding.

29 Sec. 51. Section 321I.26, Code 2011, is amended to read as
30 follows:

31 **321I.26 Safety Education certificate — fee.**

32 1. A person twelve years of age or older but less than
33 eighteen years of age shall not operate an all-terrain vehicle
34 on public land, or public ice, a designated riding trail, or
35 land purchased with all-terrain vehicle registration funds

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1 in this state without obtaining a valid safety education
2 certificate ~~issued~~ approved by the department and having the
3 certificate in the person's possession.

4 2. Upon ~~application~~ successful completion of the course
5 and payment of a fee of five dollars, a qualified applicant
6 shall be issued ~~a safety~~ an education certificate which is
7 valid until the certificate is suspended or revoked by the
8 director for a violation of a provision of this chapter or a
9 rule adopted pursuant to this chapter. ~~The application shall~~
10 ~~be made on forms issued by the commission and shall contain~~
11 ~~information as the commission may reasonably require.~~

12 3. Any person who is required to have ~~a safety~~ an education
13 certificate under this chapter and who has completed a course
14 of instruction established under section 321I.2, subsection
15 1, paragraph "i", including the successful passage of an
16 examination which includes either a written test relating to
17 such course of instruction or the demonstration of adequate
18 riding skills, shall be considered qualified to receive a
19 safety an education certificate.

20 4. The ~~permit~~ certificate fees collected under this section
21 shall be credited to the special all-terrain vehicle fund and
22 shall be used for ~~safety and~~ educational programs.

23 5. A valid all-terrain vehicle safety or education
24 certificate or license issued ~~to a nonresident~~ by a
25 governmental authority of another state shall be considered
26 a valid certificate or license in this state if the ~~permit~~
27 certification or license licensing requirements of the
28 governmental authority, ~~excluding fees~~, are substantially the
29 same as the requirements of this chapter as determined by the
30 commission.

31 Sec. 52. Section 321I.27, Code 2011, is amended to read as
32 follows:

33 **321I.27 Stopping and inspecting — warnings.**

34 A peace officer may stop and inspect an all-terrain vehicle
35 operated, parked, or stored on public streets, highways,

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1 public lands, ~~or frozen waters~~ public ice, or designated
2 riding trails of the state to determine if the all-terrain
3 vehicle is registered, numbered, or equipped as required by
4 this chapter and commission rules. The officer shall not
5 inspect an area that is not essential to determine compliance
6 with the requirements. If the officer determines that the
7 all-terrain vehicle is not in compliance, the officer may issue
8 a warning memorandum to the operator and forward a copy to the
9 commission. The warning memorandum shall indicate the items
10 found not in compliance and shall direct the owner or operator
11 of the all-terrain vehicle to have the all-terrain vehicle in
12 compliance and return a copy of the warning memorandum with the
13 proof of compliance to the commission within fourteen days. If
14 the proof of compliance is not provided within fourteen days,
15 the owner or operator is in violation of this chapter.

16 Sec. 53. Section 321I.28, Code 2011, is amended to read as
17 follows:

18 **321I.28 Termination of use.**

19 A person who receives a warning memorandum for an
20 all-terrain vehicle shall stop using the all-terrain vehicle as
21 soon as possible and shall not operate it on public streets,
22 highways, public lands, ~~or frozen waters~~ public ice, or
23 designated riding trails of the state until the all-terrain
24 vehicle is in compliance.

25 Sec. 54. Section 321I.29, subsection 1, Code 2011, is
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. *0c.* The county recorder shall collect
28 a writing fee of one dollar and twenty-five cents for each
29 duplicate special registration certificate issued by the county
30 recorder's office.

31 Sec. 55. Section 321I.31, subsection 8, Code 2011, is
32 amended to read as follows:

33 8. Once titled, a person shall not sell or transfer
34 ownership of an all-terrain vehicle without delivering to
35 the purchaser or transferee a certificate of title with an



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1 assignment on it showing title in the ~~purchaser or transferee~~
2 purchaser's or transferee's name. A person shall not purchase
3 or otherwise acquire an all-terrain vehicle without obtaining a
4 certificate of title for it in that person's name.

5 Sec. 56. Section 321I.33, subsection 1, Code 2011, is
6 amended to read as follows:

7 1. If ownership of an all-terrain vehicle is transferred by
8 operation of law, such as by inheritance, order in bankruptcy,
9 insolvency, replevin, or execution sale, the transferee,
10 within thirty days after acquiring the right to possession of
11 the all-terrain vehicle, shall mail or deliver to the county
12 recorder of the transferee's county of residence satisfactory
13 proof of ownership as the county recorder requires, together
14 with an application for a new certificate of title, and the
15 required fee.

16 Sec. 57. Section 321I.35, subsections 1 and 3, Code 2011,
17 are amended to read as follows:

18 1. The department may assign a distinguishing number to an
19 all-terrain vehicle when the serial number on the all-terrain
20 vehicle is destroyed or obliterated and issue to the owner a
21 special ~~plate~~ decal bearing the distinguishing number which
22 shall be affixed to the all-terrain vehicle in a position to be
23 determined by the department. The all-terrain vehicle shall be
24 registered and titled under the distinguishing number in lieu
25 of the former serial number. Every all-terrain vehicle shall
26 have a vehicle identification number assigned and affixed as
27 required by the department.

28 3. A person shall not destroy, remove, alter, cover, or
29 deface the manufacturer's vehicle identification number, the
30 plate or decal bearing it, or any vehicle identification number
31 the department assigns to an all-terrain vehicle without the
32 department's permission.

33 Sec. 58. Section 461C.2, subsection 5, Code 2011, is amended
34 to read as follows:

35 5. "*Recreational purpose*" means the following or any

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1 combination thereof: Hunting, trapping, horseback riding,
2 fishing, swimming, boating, camping, picnicking, hiking,
3 pleasure driving, motorcycling, all-terrain vehicle riding,
4 nature study, water skiing, snowmobiling, other summer
5 and winter sports, and viewing or enjoying historical,
6 archaeological, scenic, or scientific sites while going to and
7 from or actually engaged therein.

8 Sec. 59. Section 462A.2, Code Supplement 2011, is amended by
9 adding the following new subsection:

10 NEW SUBSECTION. 43A. "*Watercraft education certificate*"
11 means a certificate, approved by the commission, which is
12 issued to a qualified applicant who is twelve years of age or
13 older who has successfully completed a watercraft education
14 course approved by the department.

15 Sec. 60. Section 462A.12, subsection 6, Code 2011, is
16 amended to read as follows:

17 6. An owner or operator of a vessel propelled by a motor
18 of more than ten horsepower shall not permit any person under
19 twelve years of age to operate the vessel unless accompanied
20 in or on the same vessel by a responsible person of at
21 least eighteen years of age who is experienced in motorboat
22 operation. A person who is twelve years of age or older
23 but less than eighteen years of age shall not operate any
24 vessel propelled by a motor of more than ten horsepower unless
25 the person has successfully completed a department-approved
26 watercraft ~~safety~~ education course and obtained a watercraft
27 ~~safety~~ education certificate or is accompanied in or on the
28 same vessel by a responsible person of at least eighteen years
29 of age who is experienced in motorboat operation. A person
30 required to have a watercraft ~~safety~~ education certificate
31 shall carry and shall exhibit or make available the certificate
32 upon request of an officer of the department. A violation
33 of this subsection is a simple misdemeanor as provided in
34 section 462A.13. However, a person charged with violating
35 this subsection shall not be convicted if the person produces

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1 in court, within a reasonable time, a ~~department-approved~~
2 watercraft education certificate. The cost of a ~~department~~
3 watercraft education certificate, or any duplicate, shall not
4 exceed five dollars.

5 Sec. 61. NEW SECTION. 462A.12A Online watercraft education
6 courses.

7 1. The department shall develop requirements and standards
8 for online watercraft education courses. Only vendors who have
9 entered into a memorandum of understanding with the department
10 shall be approved by the department to offer an online
11 watercraft education course that upon successful completion is
12 sufficient to result in the issuance of a watercraft education
13 certificate to the person who completes the course.

14 2. A vendor approved to offer an online watercraft education
15 course as provided in subsection 1 may charge a fee for the
16 course as agreed to in the memorandum of understanding with
17 the department and may also collect the watercraft education
18 certificate fee on behalf of the department as agreed to in the
19 memorandum of understanding.

20 Sec. 62. Section 462A.36, Code 2011, is amended to read as
21 follows:

22 462A.36 Fee for special certificate — minimum requirements
23 for issuance.

24 1. Any manufacturer or dealer may, upon payment of a fee of
25 fifteen dollars, make application to the commission, upon such
26 forms as the commission prescribes, for a special certificate
27 containing a general distinguishing number and for one or more
28 duplicate special certificates. The applicant shall submit
29 such reasonable proof of the applicant's status as a bona fide
30 manufacturer or dealer as the commission may require.

31 2. The commission may adopt rules consistent with this
32 chapter establishing minimum requirements for a dealer or
33 manufacturer to be issued a special certificate. In adopting
34 such rules the department shall consider the need to protect
35 persons, property, and the environment, and to promote uniform

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1 practices relating to the sale and use of vessels. The
2 commission may also adopt rules providing for the suspension or
3 revocation of a dealer's or manufacturer's special certificate
4 issued pursuant to this section.

5 Sec. 63. Section 462A.46, Code 2011, is amended to read as
6 follows:

7 **462A.46 Purchase of registered vessel by dealer.**

8 Whenever a dealer purchases or otherwise acquires a
9 vessel registered in this state, the dealer shall issue a
10 signed receipt to the previous owner, indicating the date of
11 purchase or acquisition, the name and address of such previous
12 owner, and the registration number of the vessel purchased
13 or acquired. ~~The original receipt shall be delivered to the~~
14 ~~previous owner and one copy shall be mailed or delivered by~~
15 ~~the dealer to the county recorder of the county in which the~~
16 ~~vessel is registered, and one copy shall be delivered to the~~
17 ~~commission within forty-eight hours.~~

18 Sec. 64. Section 462A.53, Code 2011, is amended to read as
19 follows:

20 **462A.53 Amount of writing fees.**

21 A writing fee of one dollar and twenty-five cents for
22 each transaction privilege shall be collected by the county
23 recorder. ~~If two or more functions are transacted for the same~~
24 ~~vessel at one time, the writing fee is limited to one dollar~~
25 ~~and twenty-five cents.~~

26 Sec. 65. Section 805.8B, subsection 2, paragraph a, Code
27 2011, is amended to read as follows:

28 a. For registration or user permit violations under section
29 321G.3, ~~subsections~~ subsection 1 and 2, the scheduled fine is
30 fifty dollars.

31 Sec. 66. Section 805.8B, subsection 2, paragraph b,
32 subparagraph (3), Code 2011, is amended to read as follows:

33 (3) For operating violations under section 321G.13,
34 subsection 1, paragraphs "a", "b", "e", "f", "g", and "h", and
35 "i", and subsections 2 and 3, the scheduled fine is one hundred

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1 dollars.

2 Sec. 67. Section 805.8B, subsection 2, paragraph g, Code
3 2011, is amended to read as follows:

4 g. For violations of section 321G.20 and for ~~safety~~
5 education certificate violations under section 321G.24,
6 subsection 1, the scheduled fine is fifty dollars.

7 Sec. 68. Section 805.8B, subsection 2A, paragraphs a and g,
8 Code 2011, are amended to read as follows:

9 a. For registration or user permit violations under section
10 321I.3, ~~subsections~~ subsection 1 and 2, the scheduled fine is
11 fifty dollars.

12 g. For violations of section 321I.21 and for ~~safety~~
13 education certificate violations under section 321I.26,
14 subsection 1, the scheduled fine is fifty dollars.

15 Sec. 69. REPEAL. Sections 462A.40 and 462A.42, Code 2011,
16 are repealed.

17 EXPLANATION

18 This bill relates to matters concerning the regulation
19 of snowmobiles, all-terrain vehicles, and watercraft by
20 the department of natural resources, and makes penalties
21 applicable.

22 SNOWMOBILE REGULATION. The bill makes numerous revisions
23 to Code chapter 321G, which provides for the regulation of
24 snowmobiles by the department.

25 The bill defines "resident" and "nonresident", for purposes
26 of snowmobile regulation, to mean the same as defined for
27 purposes of hunting and fishing licenses.

28 The bill defines "public water" as any navigable waters
29 within the state and the marginal river areas adjacent to the
30 state, other than farm ponds, under the jurisdiction of the
31 natural resource commission. A similar definition is provided
32 for "public ice", and various sections of Code chapter 321G are
33 amended to specify the defined term.

34 The bill specifies that the natural resource commission may
35 adopt rules for the use of snowmobiles on designated snowmobile

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1 trails and for maintenance, signing, and operation of the
2 trails, and existing provisions are amended to indicate that
3 operation on designated trails is subject to regulation by
4 the department. The scope of grant programs and contracts
5 administered by the department is expanded to include
6 the signage of designated snowmobile trails. "Designated
7 snowmobile trail" is defined to mean a snowmobile riding
8 trail on any public land, private land, or public ice that is
9 designated by the department, a political subdivision, or a
10 controlling authority for snowmobile use.

11 Currently, all snowmobiles used on public land or ice in
12 this state must be registered, except for certain snowmobiles
13 owned and used by a governmental entity or snowmobiles used
14 in farming. A nonresident must obtain an annual user permit
15 to operate a snowmobile that is not registered in this state.
16 The bill extends the user permit requirement to apply to
17 residents as well as nonresidents. Under the bill, a resident
18 of this state must obtain a user permit to operate a registered
19 snowmobile on public land, public ice, or designated snowmobile
20 trails. A nonresident's snowmobile must be registered in
21 accordance with the requirements of another state and the
22 operator must obtain a user permit for operation on public
23 land, public ice, or designated snowmobile trails in Iowa.
24 The registration decal of this state or another state and the
25 user permit decal issued by this state must be displayed on a
26 snowmobile operated on public land, public ice, or designated
27 snowmobile trails in Iowa. Pursuant to current law, the fee
28 for a user permit is \$15 plus an administrative fee of \$1.50
29 and a writing fee of \$1 if the permit is issued by a license
30 agent or \$1.25 if the permit is issued by a county treasurer.

31 The bill specifies that the original application for
32 registration of a snowmobile must be filed with the county
33 recorder of the owner's county of residence or if the owner is
34 a nonresident, in the county of primary use. If a transfer
35 of ownership occurs by operation of law, the application must

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1 be filed in the transferee's county of residence. Duplicate
2 registrations and registration renewals may be accomplished
3 through a county recorder or a license agent.

4 The bill provides that a snowmobile owned by the United
5 States, this state, or another state, or by a governmental
6 subdivision, is exempt from registration and user permit
7 requirements in this state if the snowmobile is used for
8 enforcement, search and rescue, or official research and
9 studies, but not for recreational or commercial purposes.
10 Current provisions for the issuance of registration
11 certificates and registration decals for snowmobiles owned by
12 the state of Iowa or its political subdivisions are stricken.

13 The bill makes a technical change requiring that every
14 snowmobile be equipped with a headlight and a taillight, rather
15 than a headlamp and a tail lamp.

16 The bill prohibits a person from water skipping a snowmobile
17 on public water, except on rivers and streams during the period
18 between November 1 and April 1. A violation is a simple
19 misdemeanor punishable by a scheduled fine of \$100. "Water
20 skipping" is defined as the operation of a snowmobile on the
21 surface of water using the skis, track, and bottom surface of
22 the snowmobile for flotation while the snowmobile is in motion.

23 The bill makes technical changes to clarify language
24 relating to stop signal violations.

25 The bill increases the fee for a special registration
26 certificate from \$15 to \$45 for snowmobile manufacturers,
27 distributors, and dealers and extends the registration period
28 from one year to three years. Special registration certificate
29 renewals may be issued electronically. The bill provides
30 for the issuance of a special registration decal along with
31 the special registration certificate. The decal is to be
32 displayed on a snowmobile when it is being operated for
33 purposes of transporting, testing, demonstrating, or selling
34 the snowmobile. Duplicate special registration certificates
35 and decals may be issued electronically by a county recorder

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1 and are subject to a fee of \$5 plus a writing fee of \$1.25.
2 Pursuant to current law, a safety certificate is required
3 for operation of a snowmobile on regulated land or ice by a
4 person under 18 years of age, and in addition, a person 12
5 to 15 years of age must be under the direct supervision of a
6 parent, guardian, or another adult authorized by the parent or
7 guardian. The bill makes a terminology change by replacing the
8 existing "safety certificate" with an "education certificate"
9 throughout Code chapter 321G. In addition, the bill defines
10 "direct supervision" to mean providing supervision of another
11 person while maintaining visual and verbal contact at all
12 times. Currently, a person under 16 years of age must have
13 a safety certificate to operate a snowmobile on or across a
14 public highway. The bill extends the requirement to persons
15 under 18 years of age.
16 The bill authorizes the department to develop requirements
17 and standards for the provision of online education resulting
18 in the issuance of education certificates. A vendor must
19 enter into a memorandum of understanding with the department
20 to conduct such a course. Pursuant to the memorandum of
21 understanding, a vendor may charge a fee for the online course
22 and collect the education certificate fee on behalf of the
23 department.
24 The bill provides that when a serial number on a snowmobile
25 is destroyed or obliterated and the department assigns a
26 distinguishing number to the snowmobile, the department may
27 issue a special decal, rather than a plate, to be affixed to
28 the snowmobile and bearing the distinguishing number.
29 ALL-TERRAIN VEHICLE REGULATION. The bill makes numerous
30 revisions to Code chapter 321I, which provides for the
31 regulation of all-terrain vehicles by the department.
32 The bill amends the definition of "off-road utility vehicle"
33 to include rubber-tracked vehicles and vehicles with not less
34 than four and not more than eight nonhighway tires. The
35 revised definition also increases the maximum dry weight



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1 allowed for off-road utility vehicles to 2,000 pounds. In
2 addition, the bill provides that off-road utility vehicles
3 are subject to dealer registration and titling requirements
4 applicable to other all-terrain vehicles. Currently,
5 registration and titling by dealers is not required. The bill
6 specifies that the operation of off-road utility vehicles is
7 subject to provisions governing the operation of all-terrain
8 vehicles both in statute and in administrative rules.

9 The bill revises the definition of "designated riding trail"
10 to include any public land, private land, or public ice that
11 has been designated by the department, a political subdivision,
12 or a controlling entity for all-terrain vehicle use. Various
13 Code sections are amended to include designated riding trails
14 within the scope of department regulations.

15 The bill defines "public ice" as any frozen, navigable
16 waters within the state and the marginal river areas adjacent
17 to the state, other than farm ponds, under the jurisdiction
18 of the natural resource commission. Various sections of Code
19 chapter 321I are amended to specify the defined term.

20 The bill defines "resident", for purposes of all-terrain
21 vehicle regulation, to mean the same as defined for purposes of
22 hunting and fishing licenses.

23 The bill specifies that the original application for
24 registration of an all-terrain vehicle must be filed with the
25 county recorder of the county of residence or if the owner is
26 a nonresident, in the county of primary use. If a transfer
27 of ownership occurs by operation of law, the application must
28 be filed in the transferee's county of residence. Duplicate
29 registrations and registration renewals may be accomplished
30 through a county recorder or a license agent. An all-terrain
31 vehicle owned by a nonresident and registered in another state
32 must be issued a user permit in this state, which is valid for
33 use on only one all-terrain vehicle.

34 The bill provides that an all-terrain vehicle owned
35 by the United States, this state, or another state, or by

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1 a governmental subdivision, is exempt from registration
2 requirements in this state if the all-terrain vehicle
3 is used for enforcement, search and rescue, or official
4 research and studies, but not for recreational or commercial
5 purposes. Current provisions for the issuance of registration
6 certificates and registration decals for all-terrain vehicles
7 owned by the state of Iowa or its political subdivisions are
8 stricken.

9 The bill makes a technical change requiring that every
10 all-terrain vehicle be equipped with a headlight and a
11 taillight, rather than a headlamp and a tail lamp.

12 The bill provides for the inclusion of motorcycles and
13 off-road utility vehicles in special events. Also, the
14 requirement that the department furnish a copy of the rules for
15 a special event to an applicant for the event is stricken.

16 The bill makes technical changes to clarify language
17 relating to a person who violates a stop signal from a peace
18 officer.

19 The bill increases the fee for a special registration
20 certificate from \$15 to \$45 for all-terrain vehicle
21 manufacturers, distributors, and dealers and extends the
22 registration period from one year to three years. Special
23 registration certificate renewals may be issued electronically.
24 The bill provides for the issuance of a special registration
25 decal along with the special registration certificate.
26 The decal is to be displayed on an all-terrain vehicle
27 when it is being operated for purposes of transporting,
28 testing, demonstrating, or selling the vehicle. Duplicate
29 special registration certificates and decals may be issued
30 electronically by a county recorder and are subject to a fee of
31 \$5 plus a writing fee of \$1.25.

32 Pursuant to current law, a safety certificate is required
33 for operation of an all-terrain vehicle on public land or ice
34 by a person between 12 and 18 years of age. The bill replaces
35 the "safety certificate" with an "education certificate"

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1 throughout Code chapter 321I. The bill authorizes the
2 department to develop requirements and standards for the
3 provision of online education resulting in the issuance of
4 education certificates. A vendor must enter into a memorandum
5 of understanding with the department to conduct such a course.
6 Pursuant to the memorandum of understanding, a vendor may
7 charge a fee for the online course and collect the education
8 certificate fee on behalf of the department.

9 The bill provides that when a serial number on an all-terrain
10 vehicle is destroyed or obliterated and the department assigns
11 a distinguishing number to the all-terrain vehicle, the
12 department may issue a special decal, rather than a plate,
13 to be affixed to the all-terrain vehicle and bearing the
14 distinguishing number.

15 Code section 461C.2(5) is amended to include all-terrain
16 vehicle riding among the public recreational purposes to be
17 encouraged on private land in the state.

18 WATERCRAFT EDUCATION COURSES AND CERTIFICATES. Code section
19 462A.2 is amended to include a definition of "watercraft
20 education certificate" that is issued to a qualified applicant
21 12 years of age or older. Code section 462A.12(6) is amended
22 to change the nomenclature for the requirements that must be
23 met by a person between 12 and 18 years of age to operate
24 certain watercraft without an adult in the watercraft. Such a
25 person is required to complete a department-approved watercraft
26 education, instead of safety, course and obtain a watercraft
27 education, instead of safety, certificate.

28 New Code section 462A.12A requires the department to
29 develop requirements and standards for vendors to offer online
30 watercraft education courses. Approved vendors may charge
31 a fee for the course and may also collect the watercraft
32 education certificate fee on behalf of the department as
33 provided in a memorandum of understanding with the department.

34 SPECIAL CERTIFICATES FOR WATERCRAFT DEALERS AND
35 MANUFACTURERS. Code section 462A.36 is amended to allow the

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1 natural resource commission to adopt rules establishing minimum
2 requirements for special certificates to be issued, suspended,
3 or revoked for vessel dealers or manufacturers. In adopting
4 the rules, the commission shall consider the need to protect
5 persons, property, and the environment, and promote uniform
6 practices relating to the sale and use of vessels.

7 Code section 462A.40, requiring manufacturers or dealers
8 to keep written records of the vessels upon which special
9 certificates are used, and Code section 462A.42, requiring
10 dealers to furnish a list to the commission each year of all
11 used vessels held by them and for which registration has not
12 been paid, are repealed.

13 Code section 462A.46 is amended to delete a requirement that
14 when a dealer purchases or acquires a registered vessel, the
15 dealer must mail or deliver a copy of the original receipt
16 issued to the county recorder of the county where the vessel
17 is registered and to the natural resource commission within 48
18 hours.

19 Code section 462A.53 is amended to delete a limitation on
20 the writing fee collected by a county treasurer for two or more
21 functions transacted for the same vessel at one time. The bill
22 provides that the county treasurer shall collect a writing fee
23 of \$1.25 for each privilege relating to watercraft.



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Senate File 2332 - Introduced

SENATE FILE 2332
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2272)
(SUCCESSOR TO SSB 3170)

A BILL FOR

1 An Act relating to enhanced 911 emergency communication
2 systems, including surcharges and the allocation of moneys
3 collected from such surcharges and replacing the existing
4 surcharge on prepaid wireless service with a new surcharge
5 collected at the point of retail sale, and including
6 effective and applicability date provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 34A.2, Code 2011, is amended to read as
2 follows:

3 **34A.2 Definitions.**

4 As used in this chapter, unless the context otherwise
5 requires:

6 1. *"Access line"* means an exchange access line that has the
7 ability to access dial tone and reach a public safety answering
8 point.

9 2. *"Administrator"* means the administrator of the homeland
10 security and emergency management division of the department
11 of public defense.

12 3. *"Communications service"* means a service capable of
13 accessing, connecting with, or interfacing with a 911 system
14 by dialing, initializing, or otherwise activating the system
15 exclusively through the digits 911 by means of a local
16 telephone device or wireless communications device.

17 4. *"Communications service provider"* means a service
18 provider, public or private, that transports information
19 electronically via landline, wireless, internet, cable, or
20 satellite.

21 ~~3.~~ 5. *"Competitive local exchange service provider"* means
22 the same as defined in section 476.96.

23 ~~4. "Emergency 911 notification device" means a product~~
24 ~~capable of accessing a public safety answering point through~~
25 ~~the 911 system.~~

26 6. *"Emergency communications service surcharge"* means a
27 charge established by the program manager in accordance with
28 section 34A.7A.

29 ~~5.~~ 7. *"Enhanced 911"* or *"E911"* means a service that
30 provides the user of a communications service with the ability
31 to reach a public safety answering point by dialing using the
32 digits 911, and that has the following additional features:

33 a. Routes an incoming 911 call to the appropriate public
34 safety answering point.

35 b. Automatically provides voice, displays the name, address

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1 or location, and telephone number of an incoming 911 call and
2 public safety agency servicing the location.

3 ~~6.~~ 8. "*Enhanced 911 service area*" means the geographic
4 area to be serviced, or currently serviced under an enhanced
5 911 service plan, provided that an enhanced 911 service area
6 must at minimum encompass one entire county. The enhanced 911
7 service area may encompass more than one county, and need not
8 be restricted to county boundaries.

9 ~~7.~~ 9. "*Enhanced 911 service plan*" means a plan that
10 includes the following information:

11 *a.* A description of the enhanced 911 service area.

12 *b.* A list of all public and private safety agencies within
13 the enhanced 911 service area.

14 *c.* The number of public safety answering points within the
15 enhanced 911 service area.

16 *d.* Identification of the agency responsible for management
17 and supervision of the enhanced 911 emergency communication
18 system.

19 *e.* (1) A statement of estimated costs to be incurred by the
20 joint E911 service board or the department of public safety,
21 including separate estimates of the following:

22 (a) Nonrecurring costs, including, but not limited to,
23 public safety answering points, network equipment, software,
24 database, addressing, ~~initial~~ training, and other capital and
25 ~~start-up~~ expenditures, including the purchase or lease of
26 subscriber names, addresses, and telephone information from the
27 local exchange service provider.

28 (b) Recurring costs, including, but not limited to,
29 network access fees and other telephone charges, software,
30 equipment, and database management, and maintenance, including
31 the purchase or lease of subscriber names, addresses, and
32 telephone information from the local exchange service provider.
33 Recurring costs shall not include personnel costs for a public
34 safety answering point.

35 (2) Funds deposited in an E911 service fund are appropriated

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1 and shall be used for the payment of costs that are limited
2 to nonrecurring and recurring costs directly attributable to
3 the ~~provision receipt and disposition of the 911 emergency~~
4 ~~telephone communication service and may include costs~~
5 ~~for portable and vehicle radios, communication towers and~~
6 ~~associated equipment, and other radios and associated equipment~~
7 ~~permanently located at the public safety answering point~~
8 ~~and as directed by either the joint E911 service board or~~
9 ~~the department of public safety call~~. Costs do not include
10 expenditures for any other purpose, and specifically exclude
11 costs attributable to other emergency services or expenditures
12 for buildings or personnel, except for the costs of personnel
13 for database management and personnel directly associated with
14 addressing.

15 *f.* Current equipment operated by affected local exchange
16 service providers, and central office equipment and technology
17 upgrades necessary for the provider to implement enhanced 911
18 service within the enhanced 911 service area.

19 *g.* A schedule for implementation of the plan throughout
20 the E911 service area. The schedule may provide for phased
21 implementation.

22 *h.* The number of telephone access lines capable of access to
23 911 in the enhanced 911 service area.

24 *i.* The total property valuation in the enhanced 911 service
25 area.

26 *j.* A plan to migrate to an internet protocol-enabled next
27 generation network.

28 ~~8.~~ 10. *"Local exchange carrier"* means the same as defined
29 in section 476.96.

30 ~~9.~~ 11. *"Local exchange service provider"* means a vendor
31 engaged in providing telecommunications service between
32 points within an exchange and includes but is not limited to
33 a competitive local exchange service provider and a local
34 exchange carrier.

35 12. *"Prepaid wireless telecommunications service"*

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1 means a wireless communications service that provides the
2 right to utilize mobile wireless service as well as other
3 nontelecommunications services, including the download
4 of digital products delivered electronically, content and
5 ancillary services, which must be paid for in advance and that
6 is sold in predetermined units or dollars of which the amount
7 declines with use in a known amount.

8 ~~10.~~ 13. "Program manager" means the E911 program manager
9 appointed pursuant to section 34A.2A.

10 ~~11.~~ 14. "Provider" means a vendor who provides, or offers
11 to provide, E911 equipment, installation, maintenance, or
12 exchange access services within the enhanced 911 service area.

13 ~~12.~~ 15. "Public or private safety agency" means a unit of
14 state or local government, a special purpose district, or a
15 private firm which provides or has the authority to provide
16 fire fighting, police, ambulance, emergency medical services,
17 or hazardous materials response.

18 ~~13.~~ 16. "Public safety answering point" means a
19 twenty-four-hour public safety communications facility that
20 receives enhanced 911 service calls and directly dispatches
21 emergency response services or relays calls to the appropriate
22 public or private safety agency.

23 17. "Wireless communications service" means commercial
24 mobile radio service. "Wireless communications service"
25 includes any wireless two-way communications used in cellular
26 telephone service, personal communications service, or the
27 functional or competitive equivalent of a radio-telephone
28 communications line used in cellular telephone service, a
29 personal communications service, or a network access line.
30 "Wireless communications service" does not include a service
31 whose customers do not have access to 911 or 911-like service,
32 a communications channel utilized only for data transmission,
33 or a private telecommunications system.

34 18. "Wireless communications service provider" means a
35 company that offers wireless communications service to users



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1 of wireless devices including but not limited to cellular,
2 personal communications services, mobile satellite services,
3 and enhanced specialized mobile radio.

4 ~~14.~~ 19. *"Wireless E911 phase 1"* means a 911 call made
5 from a wireless device in which the wireless service provider
6 delivers the call-back number and address of the tower that
7 received the call to the appropriate public safety answering
8 point.

9 ~~15.~~ 20. *"Wireless E911 phase 2"* means a 911 call made
10 from a wireless device in which the wireless service provider
11 delivers the call-back number and the latitude and longitude
12 coordinates of the wireless device to the appropriate public
13 safety answering point.

14 ~~16.~~ 21. *"Wire-line E911 service surcharge"* ~~is~~ means a charge
15 set by the E911 service area operating authority and assessed
16 on each wire-line access line which physically terminates
17 within the E911 service area in accordance with section 34A.7.

18 Sec. 2. Section 34A.3, subsection 4, Code 2011, is amended
19 to read as follows:

20 4. *Participation in joint E911 service board required.* A
21 political subdivision ~~or state agency~~ having a public safety
22 agency within its territory or jurisdiction shall participate
23 in a joint E911 service board and cooperate in maintaining the
24 E911 service plan.

25 Sec. 3. Section 34A.6, subsection 1, Code 2011, is amended
26 to read as follows:

27 1. Before a joint E911 service board may request imposition
28 of the wire-line surcharge by the program manager, the board
29 shall submit the following question to voters, as provided
30 in subsection 2, in the proposed E911 service area, and the
31 question shall receive a favorable vote from a simple majority
32 of persons submitting valid ballots on the following question
33 within the proposed E911 service area:

34 Shall the following public measure be adopted?

35 YES ...

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1 NO ...

2 Enhanced 911 emergency telephone service shall be funded,
3 in whole or in part, by a monthly surcharge of (an amount
4 determined by the local joint E911 service board of up to one
5 dollar) on each telephone access line collected as part of each
6 telephone subscriber's monthly phone bill if provided within
7 (description of the proposed E911 service area).

8 Sec. 4. Section 34A.6A, Code 2011, is amended to read as
9 follows:

10 **34A.6A Alternative surcharge.**

11 Notwithstanding section 34A.6, the board may request
12 imposition of a an alternative surcharge in an amount up
13 to two dollars and fifty cents per month on each telephone
14 access line. The board shall submit the question of the
15 alternative surcharge to voters in the same manner as provided
16 in section 34A.6. Not less than sixty days before the date
17 of the referendum, the board shall notify all local exchange
18 service providers in the county or counties comprising
19 the E911 service area that a referendum on an alternative
20 surcharge will be held. Not less than thirty days before
21 the date of the referendum, the board shall publish in a
22 newspaper of general circulation in the county or counties
23 comprising the E911 service area a statement of estimated
24 costs as described in section 34A.2, subsection 9, paragraph
25 "e", subparagraph (1), and justification of the need for the
26 additional revenue. If approved, the alternative surcharge may
27 be collected for a period of twenty-four months. At the end of
28 the twenty-four-month period, the rate of the surcharge shall
29 revert to one dollar per month, per access line.

30 Sec. 5. Section 34A.7, subsection 1, paragraph a,
31 unnumbered paragraph 1, Code 2011, is amended to read as
32 follows:

33 To encourage local implementation of E911 service, one
34 source of funding for E911 emergency ~~telephone~~ communication
35 systems shall come from a surcharge per month, per access

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1 line on each access line subscriber, except as provided in
2 subsection 5, equal to the lowest amount of the following:

3 Sec. 6. Section 34A.7, subsection 1, paragraph b,
4 subparagraph (1), Code 2011, is amended to read as follows:

5 (1) The program manager shall notify a local exchange
6 service provider scheduled to provide exchange access line
7 service to an E911 service area that implementation of an E911
8 service plan has been approved by the joint E911 service board
9 and by the service area referendum and that collection of the
10 surcharge is to begin within ~~one hundred~~ sixty days.

11 Sec. 7. Section 34A.7, subsection 2, paragraph b, Code 2011,
12 is amended to read as follows:

13 b. A local exchange service provider is not liable for an
14 uncollected surcharge for which the local exchange service
15 provider has billed a subscriber but not been paid. The
16 surcharge shall appear as a single line item on a subscriber's
17 periodic billing entitled, "E911 emergency ~~telephone~~
18 communications service surcharge".

19 Sec. 8. Section 34A.7, subsection 5, paragraph b,
20 subparagraph (3), Code 2011, is amended to read as follows:

21 (3) If money remains in the fund after fully paying
22 obligations under subparagraphs (1) and (2), the remainder may
23 be accumulated in the fund as a carryover operating surplus.
24 If the surplus is greater than twenty-five percent of the
25 approved annual operating budget for the next year, the program
26 manager shall reduce the surcharge by an amount calculated to
27 result in a surplus of no more than twenty-five percent of the
28 planned annual operating budget. After nonrecurring costs have
29 been paid, if the surcharge is less than the maximum allowed
30 and the fund surplus is less than twenty-five percent of the
31 approved annual operating budget, the program manager shall,
32 upon application of the joint E911 service board, increase the
33 surcharge in an amount calculated to result in a surplus of
34 twenty-five percent of the approved annual operating budget.
35 The surcharge may only be adjusted once in a single year, upon

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1 ~~one hundred~~ sixty days' prior notice to the provider.

2 Sec. 9. Section 34A.7A, Code 2011, is amended to read as
3 follows:

4 **34A.7A Wireless Emergency communications service surcharge —**
5 **fund established — distribution and permissible expenditures.**

6 1. a. Notwithstanding section 34A.6, the administrator
7 shall adopt by rule a monthly surcharge of up to sixty-five
8 cents to be imposed on each ~~wireless~~ communications service
9 number provided in this state. The surcharge shall be
10 imposed uniformly on a statewide basis and simultaneously
11 on all ~~wireless~~ communications service numbers as provided
12 by rule of the administrator. The surcharge shall not be
13 imposed on wire-line-based communications or prepaid wireless
14 telecommunications service.

15 b. The program manager shall provide no less than ~~one~~
16 ~~hundred~~ sixty days' notice of the surcharge to be imposed to
17 each ~~wireless~~ communications service provider. The program
18 manager, subject to the sixty-five cent limit in paragraph "a",
19 may adjust the amount of the surcharge as necessary, but no
20 more than once in any calendar year.

21 c. (1) The surcharge shall be collected as part of the
22 ~~wireless~~ communications service provider's periodic billing
23 to a subscriber. The surcharge shall appear as a single
24 line item on a subscriber's periodic billing indicating that
25 the surcharge is for E911 emergency telephone communications
26 service. In the case of prepaid wireless telephone service,
27 this surcharge shall be remitted based upon the address
28 associated with the point of purchase, the customer billing
29 address, or the location associated with the mobile telephone
30 number for each active prepaid wireless telephone that has
31 a sufficient positive balance as of the last days of the
32 information, if that information is available.

33 (2) In compensation for the costs of billing and collection,
34 the ~~wireless~~ communications service provider may retain one
35 percent of the gross surcharges collected.



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1 (3) The surcharges shall be remitted quarterly by the
2 ~~wireless~~ communications service provider to the program manager
3 for deposit into the fund established in subsection 2.

4 (4) A ~~wireless~~ communications service provider is not
5 liable for an uncollected surcharge for which the ~~wireless~~
6 communications service provider has billed a subscriber but
7 which has not been paid.

8 2. Moneys collected pursuant to subsection 1 and section
9 34A.7B, subsection 2, shall be deposited in a separate ~~wireless~~
10 E911 emergency communications fund within the state treasury
11 under the control of the program manager. Section 8.33 shall
12 not apply to moneys in the fund. Moneys earned as income,
13 including as interest, from the fund shall remain in the fund
14 until expended as provided in this section. Moneys in the fund
15 shall be expended and distributed in the following priority
16 order:

17 a. An amount as appropriated by the general assembly to
18 the administrator shall be allocated to the administrator and
19 program manager for implementation, support, and maintenance of
20 the functions of the administrator and program manager and to
21 employ the auditor of state to perform an annual audit of the
22 ~~wireless~~ E911 emergency communications fund.

23 ~~b. The program manager shall allocate twenty-one percent of~~
24 ~~the total amount of surcharge generated to wireless carriers~~
25 ~~to recover their costs to deliver E911 phase 1 services. If~~
26 ~~the allocation in this paragraph is insufficient to reimburse~~
27 ~~all wireless carriers for such carrier's eligible expenses,~~
28 ~~the program manager shall allocate a prorated amount to each~~
29 ~~wireless carrier equal to the percentage of such carrier's~~
30 ~~eligible expenses as compared to the total of all eligible~~
31 ~~expenses for all wireless carriers for the calendar quarter~~
32 ~~during which such expenses were submitted. When prorated~~
33 ~~expenses are paid, the remaining unpaid expenses shall no~~
34 ~~longer be eligible for payment under this paragraph.~~

35 ~~c.~~ b. The program manager shall reimburse ~~wire-line~~

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1 ~~carriers~~ communication service providers on a calendar quarter
2 basis for carriers' eligible expenses for transport costs
3 between the selective router and the public safety answering
4 points related to the delivery of wireless E911 phase 1
5 services.

6 ~~d.~~ c. The program manager shall reimburse wire-line
7 carriers and third-party E911 automatic location information
8 database providers on a calendar quarterly basis for the
9 costs of maintaining and upgrading the E911 components and
10 functionalities beyond the input to the E911 selective router,
11 including the E911 selective router and the automatic location
12 information database.

13 ~~e.~~ The program manager shall apply an amount up to
14 five hundred thousand dollars per calendar quarter to any
15 outstanding wireless E911 phase 1 obligations incurred pursuant
16 to this chapter prior to July 1, 2004.

17 ~~f.~~ d. (1) ~~The program manager shall allocate an amount up~~
18 ~~to one hundred fifty-nine thousand dollars per calendar quarter~~
19 ~~equally to the joint E911 service boards and the department of~~
20 ~~public safety that have submitted an annual written request to~~
21 ~~the program manager in a form approved by the program manager~~
22 ~~by May 15 of each year.~~ The program manager shall allocate to
23 each joint E911 service board and to the department of public
24 safety a minimum of one thousand dollars per calendar quarter
25 for each public safety answering point within the service area
26 of the department of public safety or joint E911 service board
27 that has submitted an annual written request to the program
28 manager in a form approved by the program manager by May 15 of
29 each year.

30 (2) ~~Upon retirement of outstanding obligations referred to~~
31 ~~in paragraph "e", the~~ The amount allocated under this paragraph
32 "f" "d" shall be ~~twenty-five~~ forty-six percent of the total
33 amount of surcharge generated per calendar quarter allocated
34 as follows:

35 (a) Sixty-five percent of the total dollars available for

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1 allocation shall be allocated in proportion to the square miles
2 of the service area to the total square miles in this state.

3 (b) Thirty-five percent of the total dollars available for
4 allocation shall be allocated in proportion to the wireless
5 E911 calls taken at the public safety answering point in
6 the service area to the total number of wireless E911 calls
7 originating in this state.

8 (c) Notwithstanding subparagraph divisions (a) and (b), the
9 minimum amount allocated to each joint E911 service board and
10 to the department of public safety shall be no less than one
11 thousand dollars for each public safety answering point within
12 the service area of the department of public safety or joint
13 E911 service board.

14 (3) The funds allocated in this paragraph ~~"f"~~ "d" shall
15 be used for communication equipment located inside the public
16 safety answering points for the implementation and maintenance
17 of ~~wireless E911 phase 2 services. The joint E911 service~~
18 ~~boards and the department of public safety shall provide an~~
19 ~~estimate of phase 2 implementation costs to the program manager~~
20 ~~by January 1, 2005.~~

21 ~~g. e.~~ If moneys remain in the fund after fully paying
22 all obligations under paragraphs "a" through ~~"f"~~ "d", the
23 remainder may be accumulated in the fund as a carryover
24 operating surplus. This surplus shall be used to fund
25 future ~~phase 2~~ network and public safety answering point
26 improvements, including hardware and software for an internet
27 protocol-enabled next generation network, and wireless
28 carriers' transport costs related to wireless E911 services, if
29 those costs are not otherwise recovered by wireless carriers
30 through customer billing or other sources and approved by the
31 program manager. Notwithstanding section 8.33, any moneys
32 remaining in the fund at the end of each fiscal year shall
33 not revert to the general fund of the state but shall remain
34 available for the purposes of the fund.

35 ~~h. f.~~ The administrator, in consultation with the program

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1 manager and the E911 communications council, shall adopt
2 rules pursuant to chapter 17A governing the distribution of
3 the surcharge collected and distributed pursuant to this
4 subsection. The rules shall include provisions that all joint
5 E911 service boards and the department of public safety which
6 answer or service wireless E911 calls are eligible to receive
7 an equitable portion of the receipts.

8 3. a. The program manager shall submit an annual
9 report by January 15 of each year to the general assembly's
10 standing committees on government oversight advising the
11 general assembly of the status of E911 implementation and
12 operations, including both wire-line and wireless services, the
13 distribution of surcharge receipts, and an accounting of the
14 revenues and expenses of the E911 program.

15 b. The program manager shall submit a calendar quarter
16 report of the revenues and expenses of the E911 program to the
17 fiscal services division of the legislative services agency.

18 c. The general assembly's standing committees on government
19 oversight shall review the priorities of distribution of funds
20 under this chapter at least every two years.

21 4. The amount collected from a wireless communications
22 service provider and deposited in the fund, pursuant to
23 section 22.7, subsection 6, information provided by a wireless
24 communications service provider to the program manager
25 consisting of trade secrets, pursuant to section 22.7,
26 subsection 3, and other financial or commercial operations
27 information provided by a wireless communications service
28 provider to the program manager, shall be kept confidential as
29 provided under section 22.7. This subsection does not prohibit
30 the inclusion of information in any report providing aggregate
31 amounts and information which does not identify numbers of
32 accounts or customers, revenues, or expenses attributable to an
33 individual wireless communications service provider.

34 ~~5. For purposes of this section, "wireless communications~~
35 ~~service" means commercial mobile radio service, as defined under~~

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1 ~~sections 3(27) and 332(d) of the federal Telecommunications~~
2 ~~Act of 1996, 47 U.S.C. § 151 et seq.; federal communications~~
3 ~~commission rules; and the Omnibus Budget Reconciliation~~
4 ~~Act of 1993. "Wireless communications service" includes any~~
5 ~~wireless two-way communications used in cellular telephone~~
6 ~~service, personal communications service, or the functional or~~
7 ~~competitive equivalent of a radio-telephone communications line~~
8 ~~used in cellular telephone service, a personal communications~~
9 ~~service, or a network access line. "Wireless communications~~
10 ~~service" does not include services whose customers do not~~
11 ~~have access to 911 or a 911-like service, a communications~~
12 ~~channel utilized only for data transmission, or a private~~
13 ~~telecommunications system.~~

14 Sec. 10. NEW SECTION. 34A.7B Prepaid wireless E911
15 surcharge.

16 1. As used in this section, unless the context otherwise
17 requires:

18 a. "Consumer" means a person who purchases prepaid wireless
19 telecommunications service in a retail transaction.

20 b. "Department" means the department of revenue.

21 c. "Prepaid wireless E911 surcharge" means the surcharge
22 that is required to be collected by a seller from a consumer in
23 the amount established under this section.

24 d. "Provider" means a person who provides prepaid wireless
25 telecommunications service pursuant to a license issued by the
26 federal communications commission.

27 e. "Retail transaction" means the purchase of prepaid
28 wireless telecommunications service from a seller for any
29 purpose other than resale.

30 f. "Seller" means a person who sells prepaid wireless
31 telecommunications service to another person.

32 2. There is imposed a prepaid wireless E911 surcharge of
33 thirty-three cents on each retail transaction or, on or after
34 the determination of an adjusted rate as determined pursuant to
35 subsection 7, the adjusted rate.



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1 3. The prepaid wireless E911 surcharge shall be collected
2 by the seller from the consumer with respect to each retail
3 transaction occurring in this state. The amount of the prepaid
4 wireless E911 surcharge shall be either separately stated on an
5 invoice, receipt, or other similar document that is provided
6 to the consumer by the seller, or otherwise disclosed to the
7 consumer.

8 4. For purposes of subsection 3, a retail transaction that
9 is effected in person by a consumer at a business location
10 of the seller shall be treated as occurring in this state if
11 that business location is in this state, and any other retail
12 transaction shall be treated as occurring in this state if the
13 retail transaction is treated as occurring in this state for
14 purposes of section 423.20 as that section applies to sourcing
15 of a prepaid wireless calling service.

16 5. The prepaid wireless E911 surcharge is the liability of
17 the consumer and not of the seller or of any provider, except
18 that the seller shall be liable to remit all prepaid wireless
19 E911 surcharges that the seller collects from consumers
20 as provided in subsection 3, including all such surcharges
21 that the seller is deemed to collect where the amount of
22 the surcharge has not been separately stated on an invoice,
23 receipt, or other similar document provided to the consumer by
24 the seller.

25 6. The amount of the prepaid wireless E911 surcharge that
26 is collected by a seller from a consumer, if such amount is
27 separately stated on an invoice, receipt, or other similar
28 document provided to the consumer by the seller, shall not
29 be included in the base for measuring any tax, fee, other
30 surcharge, or other charge that is imposed by this state, any
31 political subdivision of this state, or any intergovernmental
32 agency.

33 7. The prepaid wireless E911 surcharge shall be increased
34 or reduced, as applicable, in an amount proportionate to
35 any change to the surcharge imposed under section 34A.7A,

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1 subsection 1. The proportional increase or reduction shall
2 be effective on the first day of the calendar month after the
3 effective date of the change to the surcharge imposed under
4 section 34A.7A, subsection 1. The department shall provide
5 not less than thirty days' advance notice of such increase or
6 reduction on the department's internet site.

7 8. If a minimal amount of prepaid wireless
8 telecommunications service is sold with a prepaid wireless
9 device for a single, nonitemized price, the seller may elect
10 not to apply the prepaid wireless E911 surcharge to the retail
11 transaction. For purposes of this subsection, an amount of
12 service denominated as ten minutes or less, or five dollars or
13 less, shall be regarded as a minimal amount of service.

14 9. Prepaid wireless E911 surcharges collected by sellers
15 shall be remitted to the department at the times and in the
16 manner provided by chapter 423 with respect to the sales
17 and use tax. The department shall establish registration
18 and payment procedures that substantially coincide with the
19 registration and payment procedures that apply to sellers under
20 chapter 423.

21 10. A seller may deduct and retain three percent of prepaid
22 wireless E911 surcharges that are collected by the seller from
23 consumers.

24 11. The audit and appeal procedures applicable under
25 chapter 423 shall apply to prepaid wireless E911 surcharges.

26 12. The department shall establish procedures by which
27 a seller of prepaid wireless telecommunications service
28 may document that a sale is not a retail transaction, which
29 procedures shall substantially coincide with the procedures for
30 documenting sale for resale transactions under chapter 423.

31 13. The department shall transfer all remitted prepaid
32 wireless E911 surcharges to the treasurer of state for deposit
33 in the E911 emergency communications fund created under section
34 34A.7A, subsection 2, within thirty days of receipt after
35 deducting an amount, not to exceed two percent of collected

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1 surcharges, that shall be retained by the department to
2 reimburse its direct costs of administering the collection and
3 remittance of prepaid wireless E911 surcharges.

4 14. The limitation of actions provisions under section
5 34A.7, subsection 6, shall apply to providers and sellers of
6 prepaid wireless telecommunications service. In addition,
7 a provider or seller of prepaid wireless telecommunications
8 service shall not be liable for damages to any person resulting
9 from or incurred in connection with the provision of any lawful
10 assistance to any investigative or law enforcement officer of
11 the United States, this or any other state, or any political
12 subdivision of this or any other state, in connection with any
13 lawful investigation or other law enforcement activity by such
14 investigative or law enforcement officer.

15 15. The prepaid wireless E911 surcharge imposed pursuant to
16 this section shall be the only E911 funding obligation imposed
17 with respect to prepaid wireless telecommunications service
18 in this state, and no tax, fee, surcharge, or other charge
19 shall be imposed by this state, any political subdivision of
20 this state, or any intergovernmental agency, for E911 funding
21 purposes, upon any provider, seller, or consumer with respect
22 to the sale, purchase, use, or provision of prepaid wireless
23 telecommunications service.

24 Sec. 11. Section 34A.15, subsection 1, paragraph c, Code
25 Supplement 2011, is amended to read as follows:

26 c. One person appointed by the Iowa ~~association of chiefs of~~
27 ~~police and peace officers~~ association.

28 Sec. 12. E911 TASK FORCE.

29 1. The homeland security and emergency management division
30 of the department of public defense shall convene a task force
31 of stakeholders to consider and offer recommendations regarding
32 needed upgrades and enhancements to the state's E911 programs.
33 Stakeholders shall include public safety and emergency
34 management representatives, local public safety answering
35 point personnel, telecommunications service providers, and

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1 state agencies that are directly involved in administering and
2 providing E911 services in this state. Aspects of E911 service
3 delivery for consideration by the task force shall include but
4 not be limited to the following:

5 a. Enhanced technology needs of local E911 public safety
6 answering points to ensure timely, quality emergency response
7 services.

8 b. Identification of new wireless technologies used in E911
9 service delivery.

10 c. Funding needs to meet state and federal emergency
11 communications technology mandates.

12 d. Potential wireless and wire-line surcharge adjustments
13 to meet E911 service delivery demands, including specific
14 recommendations on surcharge equalization and on the
15 distribution formula of surcharge revenues.

16 e. Local and state E911 administration and governance.

17 2. The task force shall submit a report containing
18 recommendations to the general assembly by December 1, 2012.

19 Sec. 13. EFFECTIVE DATE. The section of this Act enacting
20 section 34A.7B takes effect January 1, 2013.

21 Sec. 14. APPLICABILITY. The section of this Act enacting
22 section 34A.7B applies to retail sales of prepaid wireless
23 telecommunications service on or after January 1, 2013.

24 EXPLANATION

25 This bill makes several changes regarding the provisions of
26 Code chapter 34A, relating to enhanced 911 emergency telephone
27 systems.

28 The bill modifies definitions applicable to the Code
29 chapter. The bill provides that a "communications service"
30 means a service capable of accessing, connecting with, or
31 interfacing with a 911 system by dialing, initializing,
32 or otherwise activating the system exclusively through the
33 digits 911 by means of a local telephone device or wireless
34 communications device.

35 The bill provides that a "communications service provider"

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1 means a service provider, public or private, that transports
2 information electronically via landline, wireless, internet,
3 cable, or satellite. The bill changes references to the
4 wireless communications surcharge contained in Code section
5 34A.7A to an "emergency communications service surcharge",
6 and adds a definition accordingly which references that Code
7 section.

8 The bill removes a provision contained within the definition
9 of an "enhanced 911 service plan" relating to allocation of
10 funds deposited in an E911 service fund to delete inclusion of
11 costs for portable and vehicle radios, communication towers
12 and associated equipment, and other radios and associated
13 equipment permanently located at a public safety answering
14 point. The bill specifies that an enhanced 911 service
15 plan shall incorporate a plan to migrate to an internet
16 protocol-enabled next generation network. The bill adds a
17 definition of "prepaid wireless telecommunications service"
18 to mean a wireless communications service that provides the
19 right to utilize mobile wireless service as well as other
20 nontelecommunications services, including the download
21 of digital products delivered electronically, content and
22 ancillary services, which must be paid for in advance and that
23 is sold in predetermined units or dollars of which the amount
24 declines with use in a known amount.

25 The bill also adds a definition of "wireless communications
26 service" to mean commercial mobile radio service, including
27 any wireless two-way communications used in cellular telephone
28 service, personal communications service, or the functional or
29 competitive equivalent of a radio-telephone communications line
30 used in cellular telephone service, a personal communications
31 service, or a network access line, and not including a service
32 whose customers do not have access to 911 or 911-like service,
33 a communications channel utilized only for data transmission,
34 or a private telecommunications system. The bill adds a
35 definition of "wireless communications service provider" to



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1 mean a company that offers commercial mobile radio service to
2 users of wireless devices including but not limited to cellular
3 telephone services, personal communications services, mobile
4 satellite services, and enhanced specialized mobile radio. The
5 bill deletes a definition of "wireless communications service"
6 currently contained in Code section 34A.7A, subsection 5, as
7 being encompassed within the definitions added by the bill,
8 and also deletes a definition of "emergency 911 notification
9 device" which is not currently referred to within the Code
10 chapter.

11 The bill deletes a requirement that a state agency having
12 a public safety agency within its territory or jurisdiction
13 must participate in a joint E911 service board and cooperate in
14 maintaining the E911 service plan, but retains that requirement
15 with reference to political subdivisions.

16 The bill adds a reference to "wire-line" surcharges with
17 respect to the surcharge contained in Code section 34A.6, to
18 clarify that it applies to wire-line, rather than wireless,
19 communications and to promote consistency with the local
20 wire-line E911 service surcharge imposed pursuant to Code
21 section 34A.7. The bill deletes references to "telephone"
22 communications systems and surcharges contained in Code section
23 34A.7, in favor of the broader "emergency" communication
24 systems and surcharges.

25 The bill specifies 60-day local exchange service provider
26 advance notification requirements with regard to conducting a
27 referendum relating to imposition of the alternative wire-line
28 surcharge pursuant to Code section 34A.6A, and provides that
29 not less than 30 days prior to the referendum the E911 service
30 board shall publish a statement of estimated costs and a
31 justification of the need for additional revenue. The bill
32 makes consistent changes regarding notification of surcharge
33 imposition in relation to the wire-line E911 service surcharge
34 and the emergency communications service surcharge.

35 The bill specifies that the emergency communication services

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1 surcharge contained in Code section 34A.7A shall not be
2 imposed on wire-line-based communications or prepaid wireless
3 telecommunications service, deletes references to "telephone"
4 devices and services contained in the Code section, and deletes
5 references to "wireless" communications service providers and
6 the "wireless" E911 emergency communications fund.

7 The bill deletes a provision that 21 percent of emergency
8 communications service surcharge revenue shall be allocated
9 to wireless carriers to recover the costs of delivering E911
10 phase I services, and correspondingly increases an allocation
11 of the revenue to local public safety answering points and
12 the department of public safety from a current level of 25
13 percent to 46 percent. The bill deletes a requirement that
14 up to \$500,000 per calendar quarter of surcharge funds shall
15 be applied to specified outstanding wireless E911 phase 1
16 obligations; deletes a requirement that up to \$159,000 per
17 calendar quarter shall be allocated equally to joint E911
18 service boards and the department of public safety if annual
19 written request forms have been submitted; and qualifies
20 that an allocation to each service board and the department
21 of public safety of a minimum of \$1,000 per calendar quarter
22 for each public safety answering point must be pursuant to an
23 annual written request. The bill adds hardware and software
24 for an internet protocol-enabled next generation network to
25 permissible uses of carryover operating surplus moneys.

26 The bill deletes a provision imposing the emergency
27 communications service surcharge on prepaid wireless
28 telecommunications services, and creates a new and separate
29 prepaid wireless E911 surcharge imposed on retail purchases of
30 prepaid wireless telecommunications service made on or after
31 January 1, 2013. The surcharge shall be 33 cents applied
32 to each retail prepaid wireless transaction, which may be
33 increased or decreased in a proportionate amount corresponding
34 to any increase or decrease in the emergency communications
35 service surcharge level. The bill adds conforming provisions



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1 regarding collection and deposit of the surcharge, withholding
2 of specified amounts by a seller and the department of revenue
3 for administrative purposes, and provides limited liability
4 protection under specified circumstances.

5 The bill changes a current reference to the Iowa association
6 of chiefs of police and peace officers to the Iowa peace
7 officers association regarding appointments to the E911
8 communications council.

9 Additionally, the bill directs the homeland security
10 and emergency management division of the department of
11 public defense to convene an E911 task force of identified
12 stakeholders to consider and offer recommendations regarding
13 needed upgrades and enhancements to the state's E911 programs.
14 The task force is required to submit a report to the general
15 assembly by December 1, 2012.

16 The bill provides that the provisions establishing the
17 prepaid wireless E911 surcharge take effect January 1,
18 2013, and are applicable to retail sales of prepaid wireless
19 telecommunications service occurring on or after that date.



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Senate File 2333 - Introduced

SENATE FILE 2333
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3185)

A BILL FOR

1 An Act providing a sales tax exemption for the sale of tangible
2 personal property or services to substance abuse treatment
3 or prevention programs that receive block grant funding from
4 the Iowa department of public health.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2333

1 Section 1. Section 423.3, subsection 18, Code Supplement
2 2011, is amended by adding the following new paragraph:
3 NEW PARAGRAPH. *g.* Substance abuse treatment or prevention
4 programs that receive block grant funding from the Iowa
5 department of public health.

6 EXPLANATION

7 This bill provides a sales tax exemption for the sales
8 price of tangible personal property and services sold to a
9 nonprofit corporation that is a substance abuse treatment or
10 prevention program that receives block grant funding from the
11 Iowa department of public health.

12 By operation of Code section 423.6, an item exempt from the
13 imposition of the sales tax is also exempt from the use tax
14 imposed in Code section 423.5.